

STATE OF CALIFORNIA  
THE RECLAMATION BOARD  
REGULAR BOARD MEETING  
OPEN SESSION

RESOURCES BUILDING  
1416 NINTH STREET  
AUDITORIUM  
SACRAMENTO, CALIFORNIA

MARCH 16, 2007

9:16 A.M.

KATHRYN S. KENYON, CSR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 13061

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President

Mr. Butch Hodgkins, Vice President

Ms. Lady Bug Doherty, Secretary

Ms. Rose Marie Burroughs, Member

Ms. Teri Rie, Member

STAFF

Mr. Jay Punia, General Manager

Mr. Stephen Bradley, Chief Engineer

Mr. Dan Fua, Supervising Engineer

Mr. Scott Morgan, Legal Counsel

Ms. Lorraine Pendlebury, Staff Assistant

ALSO PRESENT

Mr. Rex Archer

Mr. Lewis Bair, Sacramento River West Side Levee District

Mr. John Bassett, SAFCA

Mr. Paul Brunner, TRLIA

Mr. Alan Davis, Department of Water Resources

Mr. Tom Ellis, Sacramento River West Side Levee District

Mr. Tom Foley, CCRG

Mr. Jeff Fong, Department of Water Resources

APPEARANCES CONTINUED

Mr. Larry Lee, Department of Water Resources

Mr. Curt Miller, Department of Water Resources

Mr. Mike Mirmazaheri, Department of Water Resources

Mr. Dave Mraz, Department of Water Resources

Mr. Ric Reinhardt, TRLIA

Mr. James Sandner, U.S. Army Corps of Engineers

Dr. Dale Smith, CCRG

Mr. Keith Swanson, Department of Water Resources

Mr. Tim Washburn, SAFCA

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

## INDEX

	PAGE
1. Roll Call	1
2. Closed Session	1
3. Approval of Minutes - December 15, 2006	2
4. Approval of Agenda	3
5. Public Comments	3
6. Report of Activities of the Department of Water Resources	5
7. State of Emergency - Board Actions	45
8. Three Rivers Levee Improvement Authority	46
Monthly Report	46
Summary of Permits	62
Status Update of Yuba River Levee Raise	116
Hydraulic Impact Analysis	

## CONSENT

9. Consent Calendar	120
Access Road Easement, Gary Campbell, Sutter County	

## REQUESTED ACTIONS

10. Enforcements	122
Unauthorized Detention Basin, Yuba River, Reclamation District 784, Yuba County	
11. Project or Study Agreements	140
West Sacramento Project	
12. Property Management - None	
13. Applications	146
Application No. 18159-1, Sacramento Area Flood Control Agency, Sutter County	

## INDEX CONTINUED

	PAGE
14. Permit Actions - None	
INFORMATIONAL BRIEFINGS	
15. Subventions Program Guidelines	182
16. Board Comments and Task Leader Reports	203
17. Report of Activities of the General Manager	209
18. Future Agenda	222
19. Adjourn	243
Reporter's Certificate	233

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 PRESIDENT CARTER: Good morning. Let's call the  
3 meeting to order for the State Reclamation Board meeting.

4 Mr. Punia, could you call the roll, please.

5 GENERAL MANAGER PUNIA: For the record, Jay Punia,  
6 General Manager, Reclamation Board.

7 Except Board Member Teri Rie, the rest of the  
8 members are present.

9 PRESIDENT CARTER: Thank you, Mr. Punia.

10 At this time we'll enter into a closed session to  
11 discuss litigation -- Natural Resources Defense Council  
12 versus the Reclamation Board, pursuant to Government Code  
13 Section 11126(e)(2)(A).

14 (Thereupon the closed session was held.)

15 PRESIDENT CARTER: Good morning, ladies and  
16 gentleman. Welcome to the State Reclamation Board meeting  
17 this morning.

18 For the benefit of the public here, the  
19 Reclamation Board did have a closed session this morning,  
20 prior to this open session, to discuss the litigation as  
21 agendized under Item 2.

22 At this time, I would first like to -- before we  
23 move on to Item 3, I would like to introduce members of  
24 the public. We have a new senior engineer joining the  
25 Reclamation Board. His name is Eric Butler. He's sitting

1 here in the front. We are very excited about having Eric  
2 join us and help us, hopefully, process all of our  
3 technical documentation on a timely basis. Eric is highly  
4 experienced. We're very lucky to have him. He's got a  
5 bachelor's and a master's degree from UC Davis. He worked  
6 with Chevron pipeline for eight years, which, by the way,  
7 I worked for, for Chevron for five years as well. So  
8 we're compatriots.

9 He also worked with Army Corps of Engineers, in  
10 their hydrologic engineering section, and has been with  
11 the Department of Water Resources for the last 16 years,  
12 with extensive experience in flood operations.

13 So we are very happy to have you join us, Eric.  
14 Thank you very much. And welcome aboard. We can't wait  
15 for you to start, next Tuesday is it? Tuesday. In any  
16 case, welcome aboard, Eric.

17 With that we will move on to Item 3, approval of  
18 the minutes of December 15th, 2006. We'll entertain a  
19 motion to approve.

20 SECRETARY DOHERTY: I will make a motion we  
21 approve the minutes as presented.

22 PRESIDENT CARTER: Okay. We have a motion.

23 VICE PRESIDENT HODGKINS: Second.

24 PRESIDENT CARTER: And a second.

25 Any discussion?

1 All those in favor, indicate by saying "aye."

2 (Ayes.)

3 PRESIDENT CARTER: And opposed?

4 Motion carries.

5 And Item 4, approval of the agenda for today's

6 meeting, March 16th.

7 Any proposed changes? Mr. Punia?

8 GENERAL MANAGER PUNIA: There are no proposed

9 changes to the agenda.

10 PRESIDENT CARTER: Okay. Board members?

11 SECRETARY DOHERTY: I make a motion that we

12 approve the agenda as presented.

13 PRESIDENT CARTER: We have a motion to approve.

14 VICE PRESIDENT HODGKINS: Second.

15 PRESIDENT CARTER: And a second.

16 All those in favor indicate by saying "aye."

17 (Ayes.)

18 PRESIDENT CARTER: And opposed?

19 Motion carries.

20 At this time we have Item 5, public comment

21 agendized. This is time for -- and we encourage and

22 invite any member of the public to come before the Board

23 and address the Board on items that are not agendized for

24 today.

25 Everyone will have an opportunity to address the



1 items that are agendized, as we hear them. But this is  
2 the time for people to address the Board on un-agendized  
3 items. We do encourage you to come and speak. We do ask  
4 that you fill out these little three-by-five cards that  
5 are available on the desk in the back. And please hand  
6 them to one of the staff members so that they can pass  
7 them up here, and we can be sure and recognize you when  
8 you -- if and when you want to speak.

9 I don't have any under Item 5.

10 Mr. Archer, you would like to address us under  
11 Item 5?

12 MR. ARCHER: Yes, please.

13 PRESIDENT CARTER: Very good.

14 I would ask that members of the public, when they  
15 do address the Board, that they try and limit their  
16 comments to five minutes. And I will be watching the  
17 clock.

18 So with that, Mr. Archer?

19 MR. ARCHER: Thank you. I'm Rex Archer from  
20 Linda.

21 What I would like to address is when it comes to  
22 No. 8, under Three Rivers Levee Improvement Authority, I  
23 see, today, Mr. President, there's quite an extensive  
24 paper from them.

25 Are we going to address that whole thing? Are

1 they going to address that? Or do we get to speak in  
2 between time on that? Do you know what I speak of, sir?

3 PRESIDENT CARTER: Are you asking with regards to  
4 the process by which we are going to --

5 MR. ARCHER: Correct.

6 PRESIDENT CARTER: We will be handling each of  
7 those items separately.

8 MR. ARCHER: Very good. Because there's certain  
9 things, when they bring it up, I would like to address a  
10 certain item in that.

11 PRESIDENT CARTER: That's fine.

12 MR. ARCHER: Thank you, sir.

13 PRESIDENT CARTER: That's fine. We'll be able to  
14 handle that.

15 Any other members of the public wish to address  
16 the board an un-agendized items?

17 Very good. We'll move on, then.

18 Item 6, Report of the Activities of the Department  
19 of Water Resources.

20 Mr. Swanson, you are standing in for Mr. Mayer  
21 today?

22 MR. SWANSON: Good morning. Keith Swanson,  
23 Department of Water Resources.

24 Yeah, I'm continuing to stand in for Rod Mayer.  
25 My latest assignment is scheduled to end today, but I

1 wouldn't be surprised if I'm not back here next month  
2 also.

3           Let's start off -- we'll talk about water  
4 conditions. Precipitation continues to be below average,  
5 especially in the south part of the state. The good news  
6 is that February was the wettest month of this water year.  
7 You know, certainly in northern and central California  
8 that's true. Because of the high precipitation last  
9 couple of years, the groundwater levels are at or near  
10 normal. Reservoirs are full, but snow pack is pretty  
11 light.

12           As far as projected water deliveries, from the  
13 state side of things, the State Water Project, at this  
14 point, they are talking about 60 percent deliveries, so  
15 down from full allocations. On the Central Valley  
16 Project, it's kind of a mixed bag. Agricultural  
17 contractors north of the Delta are 75 percent; south of  
18 the Delta, they are only looking at 35 percent.

19           You know, you get down to the bottom end of the  
20 system, like front-end diversion, diversion division  
21 contractors are only getting 50 percent of class one water  
22 and nothing on class two.

23           Moving on to the Levee Evaluation Program, field  
24 work continues to progress in that program really well.  
25 They've had a series of public workshops recently. And

1 they have generated some fairly lively discussions,  
2 especially down in the Stockton area, where people are  
3 talking about the implications of the findings, and they  
4 have talked about the systems in the area where there are  
5 a combination of federal levees and the private levees,  
6 and the Department is owning the federal levees.

7           One of the big issues that you should have on your  
8 radar is the seismic criteria that will be used. In the  
9 past, often, the seismic was really not a design  
10 consideration. But now there is some thinking that maybe  
11 seismic should be a consideration, especially in areas  
12 where there are saturated ground conditions year round.  
13 And the question now, that people are wrestling with, is  
14 if you had a major earthquake and you had widespread  
15 damage, could you get a levee repaired before the next  
16 flood season? And so that's something that's out there.

17           I don't know that they have come up with any  
18 conclusions at this point in time. But it potentially is  
19 a big issue.

20           Also, people are asking about bond funding  
21 availability. If, as we anticipate, some of these levees  
22 turn out to be -- to have problems, people are very  
23 interested in rectifying the problems, and they are  
24 looking for bond funds. So they are kind of curious about  
25 where the funding is, what the rules are, that type of

1    thing.

2           There will be LIDAR surveys on the urban levees  
3    starting, I think, maybe this week or next week. So you  
4    might hear people talking about low elevation helicopter  
5    flights. It's the lidar surveys. I think they are going  
6    to follow up with some magnetometer surveys. And one of  
7    the requests that came out was that the Rec Board  
8    participate in future meetings. I think, Jay, you got  
9    that request and passed it on to folks. If you haven't,  
10   I'm sure you will. The hope, from Mike Inamine's group,  
11   who are conducting these workshops on levee evaluations,  
12   that they could be coordinated with the Rec Board and you  
13   guys could help field some of the questions and help  
14   provide some of the guidance.

15           The erosion repair program, the Phase 1 work is  
16   slowly winding down, as construction is being completed.

17           Phase 2 design work, which is a lot of the  
18   restoration, planting, that type of thing, it's well on  
19   its way to getting through the design process. And  
20   construction is scheduled for May. That's something we've  
21   been talking about for a while. So that's moving on.

22           Recently, there had been some issues dealing with  
23   intake repairs. There were 13 diversions that were  
24   affected by the repairs that occurred. I think there's  
25   still five of them, where negotiations are ongoing. At

1 least that was what the case was last week. I think the  
2 idea was that these had to get repaired before something  
3 like April 1st or April 15th. And so people are working  
4 feverishly to make sure that there's no interruptions.

5 In the package that I provided you, we put in a  
6 section on Delta emergency operation plan. And it's just  
7 a brief summary of ongoing Department efforts to come up  
8 with an emergency operation plan. I wasn't going to go  
9 into great detail. Really, the intent was to provide you  
10 guys some background on what's happening there. And then  
11 the thought was that we work with Jay and bring in the  
12 folks that are developing that for a full-on briefing.

13 I wanted to just give you a heads up so you would  
14 know that there's activity going on. The Department has  
15 taken this very seriously in trying to develop a plan, in  
16 the event that we get a big earthquake and we lose a  
17 number of items and we have a massive number of breaks.

18 Tisdale Bypass sediment removal, I need to start  
19 off thanking Lady Bug, Lewis Bair, and Ron Long, who had  
20 really worked hard to help us with some of the real estate  
21 issues that we're facing. And we certainly are facing  
22 real estate.

23 I called a couple of you guys yesterday and  
24 expressed and shared some of my frustrations, as it looks  
25 like we're going to need to proceed to condemnation to

1 make this project happen. Kind of slept on it and made  
2 some phone calls this morning, and kind of regroup, and  
3 we're going to move forward, with Board guidance, on  
4 condemning the Thomlinson property, which is centrally  
5 located. And we feel it's key to making this project  
6 happen this year.

7 If we get guidance from the Board, our plan would  
8 be to move forward with condemnation, try to get  
9 possession this year, so that we can still get out into  
10 construction this summer and complete this critical public  
11 safety project.

12 You know, we've gone through a number of options  
13 with real estate looking for disposal sites. You know, we  
14 evaluated and rejected the east levee of the Sutter Bypass  
15 because of issues with tall distances and giant garter  
16 snake mitigation.

17 We were told we would have to mitigation a  
18 six-to-one ratio and that mitigation is currently running  
19 around \$40,000 an acre, huge cost --

20 SECRETARY DOHERTY: Could you repeat that again?

21 MR. SWANSON: \$40,000 an acre. It's a growth  
22 business.

23 We also rejected the north levee of the Tisdale  
24 Bypass, east of Reclamation Road, because of garter snake  
25 issues.

1           We talked with Mr. Tomlinson about his property,  
2   which is north of the bypass, straddles Reclamation Road.

3           Originally, we were working with him to spoil on  
4   his property. After he evaluated the soils, he determined  
5   that that wasn't going to work for him. So then we moved  
6   forward with trying to acquire the property or other  
7   properties north of the bypass.

8           Our real estate folks have been talking with both  
9   the Thomlinson and the Lamb family. It does not look  
10   though that we can come up with sufficient funding to  
11   interest them. And so it looks like the only way this is  
12   going to happen would be through the condemnation process,  
13   and so what we would like is to get some support for  
14   moving forward with the condemnation process, with the  
15   idea that --

16           MEMBER BURROUGHS: The question I have is, is the  
17   problem that's involved with the amount of money that's  
18   being offered for it?

19           MR. SWANSON: That's correct.

20           MEMBER BURROUGHS: And could you share what's  
21   being offered?

22           MR. SWANSON: Yeah.

23           LEGAL COUNSEL MORGAN: No.

24           MR. SWANSON: No, we can't? Okay.

25           MEMBER BURROUGHS: Okay.



1           MR. SWANSON: And as far as the condemnation  
2 process, I won't go into great detail. But with counsel's  
3 approval, if you guys wanted to have a subcommittee to  
4 participate in this, because it is so critical, we would  
5 be more than happy to, you know, have regular meetings to  
6 follow the progress and, you know, solicit any input we  
7 could, from Board members.

8           SECRETARY DOHERTY: I would also like to address  
9 the situation. Because I've been aware of this Tisdale  
10 Weir problem for several years. I'm also aware of the  
11 lives at risk and the economic disaster waiting to happen.  
12 This area was last cleaned 20 years ago.

13           In 2005, my very first meeting concerned solutions  
14 for the Tisdale Weir. And then nothing happened, and it  
15 just kept going. And then, as I understand, and I could  
16 be misinformed, that in August of 2006, the Department of  
17 Acquisitions and Right-of-Ways and Engineering Department  
18 were told to go out and locate land because the solution  
19 that we had for dumping this soil, on the west side of the  
20 Sutter Bypass, wasn't going to work.

21           So this thing has drug on and on and on. Now we  
22 were told we would have an answer today. We don't have an  
23 answer today.

24           I was told two weeks ago, on a Friday, that the  
25 appraisals were all done. I went to a meeting where the

1 offer could be made, because the appraisal was done. And  
2 I was told, oh, I need another signature. I will have it  
3 by tomorrow, and we'll go and make that offer. That  
4 didn't happen. It didn't happen until the following  
5 Friday.

6 So this has gone on and on and on. And what I  
7 want to know -- and in a business, if we're this far apart  
8 on our price, and if we factor in the haul cost, could we  
9 not be allowed to come up as the landowner comes down?  
10 Who can we go to? Is there anybody that knows who we can  
11 go to, to solve this problem?

12 If we have to haul 25 miles, we're going to add  
13 millions onto this project. If we can just simply come  
14 over the top of the levee and dump, hey, we're saving  
15 money.

16 Could we not buy this orchard that's there, dump  
17 on it? I mean, I don't know. I just feel a great deal of  
18 frustration.

19 Butch, any suggestions?

20 VICE PRESIDENT HODGKINS: I want to ask a couple  
21 questions. In this situation, to condemn, somebody has to  
22 adopt a Resolution of Necessity, Resolution of Intention.  
23 Who is that?

24 MR. SWANSON: It would be the Rec Board.

25 VICE PRESIDENT HODGKINS: Okay. If I were working

1 with a, let say, board of supervisors, the Board would  
2 have an opportunity to convene in closed session, and  
3 weigh in, with advise from counsel, on whether or not the  
4 process is best solved by settling the dispute over the  
5 price now or going to court.

6 Is that what would happen here, Mr. Attorney?

7 I guess I'm asking, simply, the question here, in  
8 the State system, does this Board have the ability to  
9 convene in closed session, get fully briefed on the  
10 aspects of where the appraisal is and what the property  
11 owner is risking, what counsel's feeling is, in terms of  
12 the risk or losing, and the costs of that, so we can make  
13 a decision? Or is that up to somebody else in the state?

14 LEGAL COUNSEL MORGAN: There are provisions for  
15 closed sessions for real estate acquisitions, and we can  
16 consider having that on the agenda for the meeting next  
17 month, when the Resolution of Necessity would be coming  
18 before the Board.

19 VICE PRESIDENT HODGKINS: Let me ask you, could we  
20 call a special meeting for that purpose?

21 LEGAL COUNSEL MORGAN: For that purpose?

22 VICE PRESIDENT HODGKINS: Because this is truly a  
23 matter of -- if we don't get the sediment out of that  
24 weir -- I mean, out of that bypass, it's a matter of time  
25 before the Sacramento River is going to get overtopped.

1           And Keith and RD 108 have been trying to tell  
2   people that. And I share the frustration. And I guess,  
3   Keith, I would be willing to ask the Board to consider a  
4   special meeting for purposes of being advised on and  
5   potentially making a decision on the acquisition of this  
6   property, as long as we have the authority to make that  
7   decision. And I'm just not a hundred percent sure, in the  
8   state system, that it's us.

9           LEGAL COUNSEL MORGAN: We'll find out. Just for  
10   clarification, this would be not a special meeting under  
11   the Bagley-Keene, but a meeting for the special purpose of  
12   addressing this issue.

13          VICE PRESIDENT HODGKINS: And it would be -- in  
14   order for them to be able to share the information about  
15   the evaluation of this property, it has to be in closed  
16   session. If the Board then makes a decision, we have to  
17   come out and tell the public what the decision was.

18          But Keith, I'm going to sort of turn this back to  
19   you. If you think that would help get this thing moving,  
20   then I would ask the Board to consider setting up a  
21   special meeting for that purpose. But I need to know if  
22   it's going to do any good.

23          MR. SWANSON: I think we will need to develop a  
24   specific work plan and how we're going to make this  
25   happen. And if -- I think having a special meeting will

1 save weeks, which weeks are critical at this point in  
2 time.

3 So I think we will back with a specific plan. And  
4 I know, there are some notifications that have to occur  
5 with the property owner. I think it's a two-week  
6 notification. We need to get on that and file that.

7 And then as soon as we can then schedule a meeting  
8 and meet our obligations, I think it will be helpful.

9 SECRETARY DOHERTY: I agree with Butch. We need  
10 to help him.

11 VICE PRESIDENT HODGKINS: What did he say? What  
12 did he say? I'm sorry.

13 MR. SWANSON: Okay.

14 I'm not the expert on the condemnation process.  
15 But I understand that we have to notify the landholder  
16 that we are going to consider adopting a notice of --  
17 well, maybe Al --

18 MR. DAVIS: General Manager, President, Board  
19 Members, my name is Alan Davis. I'm the chief over  
20 acquisitions and utility relocations for the Department of  
21 Water Resources.

22 What Keith is referring to, there's a process that  
23 must be followed when we proceed with condemnation.

24 SECRETARY DOHERTY: But the question wasn't about  
25 condemnation. The question was --

1 MR. DAVIS: Well -- okay. Go ahead.

2 SECRETARY DOHERTY: -- was, if we could come  
3 together on a price, would this be allowable, without  
4 condemnation, which takes -- how long does condemnation  
5 take?

6 MR. DAVIS: It varies. But let me answer the  
7 first question first. Yes, we could come together on a  
8 price, but the price has to be totally focused on the real  
9 estate requirements, because that's what we're acquiring.

10 Even though there's some consideration into the  
11 haul costs and other variables, based upon us acquiring  
12 the land, any settlement has to refer back to the land  
13 acquisition price.

14 So for example, we cannot exceed a certain limit.  
15 So just because the landowner may want X amount of dollars  
16 for this to get settled, we can't exceed that amount,  
17 because the whole vote is that we pay a fair price for the  
18 land itself. So everything is pretty much associated with  
19 the real estate.

20 SECRETARY DOHERTY: I understand that part of it.

21 However, once we get it, then it's ours in  
22 perpetuity and it can be reused over and over and over.  
23 And that has to add value to it.

24 VICE PRESIDENT HODGKINS: Well, I have a different  
25 question that's along the same line.

1 MR. DAVIS: Okay.

2 VICE PRESIDENT HODGKINS: There comes a time in  
3 these things where there is clearly a disagreement based  
4 on the appraisal that's done by the agency, who wants the  
5 property, and the property owners manage the property.

6 In other agencies, the Board has the right and the  
7 authority to come in and in effect say, "We understand  
8 what these businesses are. It is our judgment, as a  
9 Board, that the best way to solve this is to move forward  
10 and pay this".

11 And I'm asking, can that Board do this in this  
12 case?

13 MR. DAVIS: In this particular case, based on  
14 where we are at, right now, the Board does not have that  
15 authority to give that individual landowner an increase in  
16 value.

17 What the Board can do is offer some suggestions.  
18 And that's what we are trying to do and wish to make this  
19 particular acquisition happen. But you do not have the  
20 authority to say, whatever the landowner wants, he can get  
21 it, or she can get it.

22 SECRETARY DOHERTY: Who -- if you don't have the  
23 authority and we don't have the authority, who in this  
24 complex, in this government has the authority?

25 MR. DAVIS: In this particular situation, based

1 upon all the variabilities, right now, no one within DWR  
2 has the authority to say, "We will pay in excess of a fair  
3 market value."

4 What will happen is it will be determined by the  
5 courts. The courts are the only way that we can exceed  
6 the statutory requirement.

7 SECRETARY DOHERTY: So even the governor couldn't?

8 MR. DAVIS: The governor -- if he wants it -- he's  
9 done other things. If he wants to say, "Do this  
10 acquisition and pay this person," he does have that  
11 authority.

12 MEMBER BURROUGHS: I guess the question is not  
13 just about the exact amount. But a better question would  
14 be, with what Butch and Lady Bug had been asking is, when  
15 you look at the total cost of the project, and if you are  
16 going to be saving money by not having to have the cost of  
17 hauling, who can make that? Is there anyone else who  
18 could make that determination for the overall good of the  
19 project, that maybe looking at some -- maybe it's not just  
20 our costs. Maybe there's some other circumstances that  
21 would come to the table to negotiate. That's my question:  
22 Is there anyone that has the authority to negotiate at the  
23 table, with the landowner?

24 MR. DAVIS: With the landowner? I would assume,  
25 as you guys have pointed out, there's probably somebody



1 within the Department. I need to correct that. The  
2 director may be able to make that decision, that we pay  
3 that amount.

4 However, what we also have to look at is, there's  
5 other projects throughout the whole state. And if we make  
6 that decision that we're going to pay this individual  
7 landowner, then we will establish some precedence, and  
8 that will start a precedent for the whole entire state.

9 And just so the Board is aware, we do factor that  
10 in. We do factor in the cost of condemnation. We do  
11 factor in the costs of transportation. And if we can make  
12 this particular transaction work, we're all for that. At  
13 this particular time, we're worlds apart. And it's very  
14 difficult to provide the landowner with the amount of  
15 compensation that they request.

16 SECRETARY DOHERTY: I have one more question.

17 MR. DAVIS: Sure.

18 SECRETARY DOHERTY: In real estate deals in the  
19 past, when you work with an appraiser, the seller  
20 oftentimes has an appraiser. The buyer has an appraiser,  
21 and then you got a third uninterested appraiser. And you  
22 kind of work with those three figures.

23 Now, in dealing with the state, is the state  
24 appraiser the last word about everything?

25 MR. DAVIS: Oh, no. We always provide the

1 landowners -- if they want to go out and get their own  
2 appraisal, and we sit down, after the appraisal is  
3 complete, and had see if we can come to a reasonable  
4 solution, we always do that.

5 In this particular case, that has not happened.  
6 Neither one of the landowners have went out and gotten an  
7 appraisal by a certified appraiser.

8 SECRETARY DOHERTY: So there was an appraisal, but  
9 it wasn't by a certified appraiser?

10 MR. DAVIS: The landowners have -- the only  
11 appraisal that's on the table is the appraisal that was  
12 completed by DWR.

13 SECRETARY DOHERTY: It was my understanding that  
14 the landowner had shown you comparable properties and  
15 prices.

16 MR. DAVIS: They did do that, but they did not  
17 complete an appraisal. Bottom line is they have said,  
18 "These are some properties that have sold recently, in the  
19 past, that I believe is similar to mine." However, after  
20 going back and analyzing those individual comparable  
21 sales, they weren't comparable for a variety of reasons.

22 A couple of those would be location and land use  
23 and those things, and we have responded back to the  
24 landowner, informing them that those houses were not  
25 comparable.

1           Neither one of the landowners have actually  
2   completed an appraisal, where they have taken those comps  
3   and they've, and they have made some adjustments and said,  
4   "Based upon those comps, the value of this land is X."  
5   That has not occurred.

6           VICE PRESIDENT HODGKINS: Can I ask for a report  
7   back from Scott, specifically on what the Board's role and  
8   authorities are, in the acquisition of land. And I am  
9   most interested, at this point, in understanding whether  
10   or not the Board has the authority to make a decision on  
11   the purchase price of land based on its judgments of the  
12   situation. Because I know -- and again, the state law may  
13   be different. Okay?

14           But in local government, the Board has the  
15   authority to make a decision that, in effect, lets the  
16   person go forward, add something other than the appraised  
17   value that comes in as part of the condemnation. So I'm  
18   interested in understanding. What I'm not certain of is  
19   if this Board has that authority, and I'm also not certain  
20   of whether that authority comes into play before or after  
21   the Resolution of Necessity is done.

22           So I don't know exactly how to phrase these  
23   questions. But the situation here, Scott, is, if we don't  
24   get the property so Keith can get that dirt out of there,  
25   somebody's going to get flooded. And I can promise you,

1 you will be in court. And it will be a lot longer  
2 figuring out who's liable for that, than moving forward  
3 and taking care of this now, if we can.

4 LEGAL COUNSEL MORGAN: I will get you that  
5 information. I will also -- we'll look into the idea of a  
6 closed session, holding a meeting specifically to address  
7 this project and do so as soon as possible, before the  
8 next regular meeting.

9 VICE PRESIDENT HODGKINS: That would be  
10 appreciated. Does that --

11 SECRETARY DOHERTY: Yes.

12 VICE PRESIDENT HODGKINS: -- make sense to  
13 everybody on the Board?

14 PRESIDENT CARTER: I think in the meantime, once  
15 we determine whether or not a special meeting -- a meeting  
16 for the purpose of discussing real estate acquisition, in  
17 a closed session meeting, if it makes sense for us to do  
18 that, we'll go ahead and schedule that at the earliest  
19 possible time.

20 SECRETARY DOHERTY: I would also like to --

21 PRESIDENT CARTER: I think the DWR ought to  
22 proceed with whatever course they deem appropriate in  
23 parallel. And I think you -- the real estate group --  
24 real estate acquisitions group needs to, perhaps, revisit  
25 the appraisal and see if we can resolve this and settle

1    this without going through the condemnation process,  
2    because that's not going to get us where we need to be, by  
3    next fall, the next flood season.

4           MR. DAVIS:   Like I said earlier, we have continued  
5    to negotiate with this individual landowner.  They have --  
6    we have increased our offer.  It's not like we have stayed  
7    at the exact amount --

8           PRESIDENT CARTER:  Well, I would ask that every  
9    party sharpen their pencil a little more.

10          MR. DAVIS:  That's what we're doing right now.  
11   We're hoping to get this resolved.  The only reason we're  
12   before you is we understand the importance of this  
13   project.  We want this project to proceed, as planned, for  
14   construction this year.  This is the avenue that gives us  
15   the best chance.

16          PRESIDENT CARTER:  I'd had hoped that we had known  
17   that about six months ago.  We're faced with a situation  
18   where we cannot get where we need to be if we proceed with  
19   that course.  And that really is not acceptable.  Okay?

20          MR. DAVIS:  Yes, Mr. President.

21          PRESIDENT CARTER:  So there are a couple people,  
22   that did give me cards, that wanted to speak specifically  
23   on Tisdale.

24                 How much more do you have to report to us,  
25   Mr. Swanson?

1           MR. SWANSON: I would like to give you some more  
2 follow-up on Garmire Road Bridge. We have the flood  
3 project integrity. I would like to talk a little bit  
4 about that, some of the vegetation management issues that  
5 are on the horizon. And it's a pretty major issue.

6           PRESIDENT CARTER: Why don't we -- let's just see  
7 if we can get Tisdale behind us.

8           So Mr. Bair, did you want to address the Board on  
9 Tisdale?

10          MR. BAIR: Thanks for the opportunity to speak  
11 today. And I think most of the feelings expressed here by  
12 you guys, the frustration that we're not where we want to  
13 be are shared by myself, and I won't repeat all of those.

14          I do want to speak a little bit from the local  
15 perspective. And one of the things that I think would be  
16 very helpful for this project is, if any of you have  
17 contacts with Lester Snow or with the upper level  
18 management here, then certainly I think it would be  
19 helpful. I'm trying to do the same thing.

20          In my mind, there is no opportunity for not doing  
21 this. As Scott Nomellini said, in the Delta, I don't have  
22 any room in my mind to not think about that -- or to think  
23 about that. It's just not a possibility. It's not an  
24 option. We've waited a long time to be where we are at.  
25 And there's always another reason you can't get another

1 project done, and it's simply not an option.

2 From the local perspective, I know the State is  
3 concerned about liability and we're -- as Butch mentioned,  
4 there's hundreds of millions of dollars in liability and  
5 there's no clear path to the state on those liabilities  
6 and Capitol Avenue, here. That's one item. It's probably  
7 not what I'm most concerned about.

8 I'm not concerned about the fact that the dollars  
9 we're arguing about right now, if we delay this project  
10 for a year, we're talking about 1 percent of the project  
11 for us. We delay this project for a year, we're going to  
12 have 10 percent increase in construction costs.

13 We're just making poor decisions. But I think  
14 what's even more important is what you guys are charged  
15 with, and that's public safety. Immediately downstream of  
16 this bypass, we've got a firehose of a river because of  
17 the failing in this bypass, pointed at levees downstream  
18 that protect towns, that have elementary schools. In the  
19 middle of this next winter, if we have a levee failure,  
20 there's going to be 10 foot head of water charging into  
21 these towns and schools, and everybody will be looking at  
22 their local flood control representative and asking them  
23 why this happened. And they are going to be coming to  
24 you; they're going to be coming to everyone.

25 So this just can't happen. It's got to happen.

1 We need to do what we can here, to be able to do that. I  
2 thank you for your support, all the way through on this.  
3 And I hope, the next couple of weeks, we can reach a  
4 resolution.

5 Thank you.

6 VICE PRESIDENT HODGKINS: Mr. Bair, do you know  
7 what authority RD 108 has to acquire property?

8 MR. BAIR: I do. We just did, for a fish screen  
9 project, where we had to -- my biggest frustration, we had  
10 to obtain 30-plus parcels and fraction several people from  
11 the river and do a lot of different things. We paid more  
12 for that property, similar project, than what they are  
13 buying right now, more than what the state's offering.

14 We did have to go very near to condemnation on one  
15 of the properties. And I can tell you, when your priority  
16 is to obtain a piece of property, you get back to people,  
17 you sit in a room, and you work until it's done. You  
18 don't take weeks to get back to folks. You don't not get  
19 things done. And that's what's happening here.

20 I don't -- you know, it's frustrating for me  
21 because we've had seven months to work on this project.  
22 And after seven months, one of the offers was made just a  
23 week ago.

24 And now we're asking a landowner to make a  
25 decision on selling a piece of property. It's really



1    unfair, and it's embarrassing for me to have to call the  
2    landowner and tell them how important this project is.  
3    But I can tell you I did. I still did it. And I think  
4    the State needs to be doing that. They need to be talking  
5    to those folks. They need to be in a room and come up  
6    with a resolution.

7           We don't need to, you know, to be negotiating in a  
8    way that we're trying to get a project done in five years.

9           I'm sorry, Butch. Your direct question -- we did  
10   settle. We came up with reasons why it was important to  
11   get that thing done, and reasons why we severed their  
12   property. We did other things. We negotiated those  
13   deals.

14           VICE PRESIDENT HODGKINS: I think what I was  
15   suggesting is to think about whether you might be able to  
16   acquire this property rapidly enough and perhaps work  
17   with -- I don't know who it would be, to see what  
18   assurances the state might be able to give in terms of  
19   what they would reimburse for the acquisition of that,  
20   certainly, the appraised value. Anyway, think about it.  
21   I'm not sure how it would work, but try and figure it out.

22           MR. BAIR: I can tell you, my Board is in a mode  
23   of whatever they can do to get this thing done. They do  
24   have limited resources.

25           VICE PRESIDENT HODGKINS: All right.

1           PRESIDENT CARTER: Thank you.

2           Mr. Ellis?

3           MR. ELLIS: Thank you, President Carter, Members  
4 of the Board. I'm Tom Ellis. I'm President of the  
5 Sacramento Westside Levee District, which is the board  
6 that's responsible for the security of the Westside Levee,  
7 on the Sacramento River, from Knight's Landing, Colusa,  
8 most affected by the project.

9           And I'm frustrated. I appreciate the members of  
10 the Board and their frustration too. But there doesn't  
11 seem to be much sense of urgency with regard to this  
12 project. And another year of exposure is unacceptable to  
13 our district.

14           The liability still exists. We've talked about  
15 this. But I'm harping about -- I believe it was  
16 November 2004, at a flood control conference in Sacramento  
17 here. One of the best flood control attorneys I know,  
18 George Basye was moderating the panel, stood in front  
19 of -- a lot of people in this room were at that  
20 conference. And he told that conference, if the Tisdale  
21 situation is not corrected and flooding occurs in the  
22 Knight's Landing area, I can assure you there will be  
23 litigation. And we're in the year 2007. This past year,  
24 it's been a very dry year. It's been a grace period. And  
25 we can't stand exposure for another year.

1           I just can't encourage you to make sure that this  
2 project gets done now.

3           Thank you so much.

4           PRESIDENT CARTER: Thank you.

5           MEMBER BURROUGHS: Mr. President, do we have any  
6 other comments on this?

7           PRESIDENT CARTER: Not on Tisdale. I don't have  
8 any other cards.

9           MEMBER BURROUGHS: I have a suggestion. Rather  
10 than waiting for a noticed meeting, I would propose that,  
11 within the guidelines of maybe having one or two Board  
12 members meet with those that have the authority to come to  
13 the table to look at alternatives, maybe some alternative  
14 options that can move this process forward.

15           PRESIDENT CARTER: You're asking a couple Board  
16 members to help facilitate the negotiation process?

17           MEMBER BURROUGHS: Without waiting for a noticed  
18 meeting. Just get on it right now and get going.

19           Right now, I, myself, can come up with three  
20 things that I think could push this project forward. And  
21 just the technical brickwall that's being faced and  
22 everyone has all -- you know, just a stopped approach  
23 right now.

24           The timing is, as everyone has stated, is not  
25 acceptable to go through the alternative process right

1 now, of condemnation.

2 So Lady Bug, are you --

3 SECRETARY DOHERTY: I would be willing to do  
4 anything.

5 PRESIDENT CARTER: The question I would ask Scott  
6 is, we need to be sure that we're not in violation of our  
7 Bagley-Keene requirements, given the number of Board  
8 members that have participated.

9 LEGAL COUNSEL MORGAN: How many Board members have  
10 participated in this so far?

11 PRESIDENT CARTER: Well, we all have, by virtue of  
12 this public meeting.

13 LEGAL COUNSEL MORGAN: The discussion here is the  
14 public meeting. And the public meetings are all public.

15 If individual Board members, one or two individual  
16 Board members, want to meet, and if there's any  
17 opportunity for them to do so with the Department, to have  
18 discussions, that wouldn't violate Bagley-Keene. It is  
19 just an informal subcommittee of one or two individuals.

20 I had a question for Mr. Davis: If you could  
21 enlighten the Board a little bit on the process of  
22 acquisition of the property. Once the Resolution of  
23 Necessity is adopted, if one were adopted, what is the  
24 timeframe for gaining access to the property?

25 MR. DAVIS: The timeframe would be, after the

1 Resolution is adopted, I would be meeting with the  
2 Attorney General's Office and discussing the proposed  
3 condemnation. The Attorney General's Office would then be  
4 responsible for preparing all the necessary documents and  
5 filing it in court.

6 It varies.

7 MEMBER BURROUGHS: What's the shortest? What's  
8 the longest time?

9 MR. DAVIS: The shortest? I would estimate that  
10 we would have possession approximately by June 15th. And  
11 that's the goal that we've always had. That's why we  
12 understand this project is very important. And myself,  
13 along with my staff, have done a lot of things in which to  
14 make this happen.

15 So I would say, like I said, our target date is  
16 June 15th to have possession.

17 PRESIDENT CARTER: Of 2007?

18 MR. DAVIS: Yes, sir.

19 LEGAL COUNSEL MORGAN: So that's the reasons to go  
20 forward with parallel activities. You have to send out  
21 the notice in order to have a Resolution of Necessity, by  
22 a certain time. If the negotiations were to fall through  
23 you would still have to have that, the paperwork, going on  
24 that, in order to meet your deadlines. And if you don't,  
25 then it would just put it out further; correct?

1 MR. DAVIS: Correct.

2 VICE PRESIDENT HODGKINS: I think part of what I  
3 was asking, Scott, is as you research this, help the Board  
4 get a good understanding of what the timelines are. And I  
5 would also say -- and understand that in condemning, we  
6 have agreed that we will continue to negotiate. And, you  
7 know, if we can't come to an agreement, the court sets the  
8 price of the land, but we get possession.

9 So if -- I guess what I'm saying is, if we need a  
10 Resolution of Necessity on the agenda for the next Board  
11 meeting, if there's any way to get it on the agenda, I  
12 would like to see us get it on the agenda, which is the  
13 start of that process, from what I know.

14 PRESIDENT CARTER: So if there are no objections  
15 from the -- from the rest of the Board, Lady Bug, you and  
16 Rose Marie are willing to work with DWR, to see if we can  
17 get this off -- moving further. And again, DWR, pursue  
18 your processes in parallel.

19 Scott, you are going to do your research and get  
20 back to the Board. Okay? Very good.

21 LEGAL COUNSEL MORGAN: And I would -- I will get a  
22 calendar down here and we will try to figure out a time  
23 for possible meetings. Especially on this issue, I think  
24 it would be well advised to have one.

25 If there is some decision for the Board to make on

1 this, with regard to pricing, if the Board members are  
2 available, we'll probably set something up between now and  
3 April.

4 PRESIDENT CARTER: Very good. All right. Thank  
5 you.

6 Mr. Swanson, let's go ahead and continue with the  
7 rest of your report.

8 MR. SWANSON: I truly thank you for your help and  
9 support, working through this issue.

10 SECRETARY DOHERTY: We're not beating up on you  
11 personally. This is just the situation.

12 MR. SWANSON: I know. I share your frustrations  
13 though.

14 PRESIDENT CARTER: It's bureaucracy at its finest.

15 MR. SWANSON: Bureaucracy. The next item we're  
16 talking about is Garmire Road Bridge.

17 We got bureaucracy at its finest there also. I  
18 told you, at the last meeting, that we were informed that  
19 Caltrans no longer had the ability to reprogram money  
20 internally. We found out that we were not on the  
21 current -- last year's funding -- approved funding list.

22 And so I had a meeting with Al Sawyer and Mike  
23 McCollun, over at Caltrans, to understand the process, to  
24 delve into the process, to find out if there's something  
25 the Board could do.

1 Butch, you expressed willingness to intervene, if  
2 you at all could, because of the public safety issues.  
3 And I think that it's a pretty rigid federal process right  
4 now that unless you know somebody up in the Office of  
5 Management and Budget, there really isn't going to be any  
6 way of breaking this free of the process that it's under  
7 right now.

8 The project will be in front of the SACOG Board  
9 next week. And the expectation is that they will approve  
10 it and it will go through some reviews. We will have  
11 money -- at the earliest, I think it's in June. The  
12 latest, I think it was something like August.

13 Timing-wise, this is maybe not so bad, because  
14 currently, Sutter County had a lot of engineering staff  
15 leave. They are down to Al Sawyer left in their office.  
16 Had about five people leave recently.

17 So they are coming up with a contract to do the  
18 construction oversight. They're in the process of working  
19 that out. Assuming we get our funding by summer, Sutter  
20 County will bid the job, hopefully award it in the fall.

21 One of the first items that will have to happen is  
22 ordering piles for the project. I just found out a while  
23 back that the piles have a six-month order time currently.  
24 And so it's important that the contract is awarded so that  
25 we can get going in the --



1           SECRETARY DOHERTY: May I ask you a question about  
2 this bridge?

3           MR. SWANSON: Yes.

4           SECRETARY DOHERTY: Before, we couldn't cancel it  
5 because da, da, da, da, da. And now there's not enough  
6 money. So can we cancel it now?

7           MR. SWANSON: Well, you can cancel it at any time.  
8 The question is: If you cancel it, then you start this  
9 whole process over again, the whole environmental  
10 process --

11          SECRETARY DOHERTY: So we have to have a whole new  
12 process to have a low water crossing?

13          MR. SWANSON: Correct. Correct. And you start  
14 this all over again. We're so close to getting this  
15 situation rectified. I mean, close relative to what it  
16 would take if you start the process over again, and start  
17 the CEQA process again.

18          I mean, I really don't want to contemplate having  
19 to do that.

20          We included a section on the flood project  
21 integrity section in the writeup. You have been briefed,  
22 in the past, about some of the changes that have been  
23 going on, in that group. They have been revising their  
24 process and adding a lot more staff, a lot of professional  
25 staff, something that's been going on at least in the past

1 year. It's a good thing that we did that, because now,  
2 with the change in focus, with the Corps of Engineers,  
3 changing their inspection process, their expectations, we  
4 were gearing up for it, and we're able to handle the  
5 increased workloads.

6 On the federal side of things, started with the  
7 issue of Memo 43, that is requiring that local levee  
8 maintainers demonstrate that their projects meet FEMA  
9 requirements for a hundred-year flood protection.

10 The Corps has also introduced new inspection  
11 processes and guidelines. The Corps would say that this  
12 is nothing new; it's really just compliance with existing  
13 standards, that were established back in the 1950s.

14 It does provide some issues for California because  
15 we have a budget that was built, had trees on their  
16 levees, that were not in compliance with national  
17 standards. Our O&M manuals state that we can have some  
18 trees on the waterworn slopes.

19 We have been inspecting the projects for the past  
20 40 years. And trees and encroachments are on our levees.  
21 Really, there's never been any reconciliation with later  
22 environmental laws. And so this is kind of going to be  
23 coming to a head, if the Corps continues with its current  
24 process, and it insists that we meet the 1950 standards.  
25 There's been a number of outreach efforts from the

1 Department. We've had some workshops where we have met  
2 with reclamation districts, and we've informed the  
3 reclamation districts that standards are changing,  
4 expectations are changing.

5 There was a workshop last week, over at the Corps,  
6 that Butch participated in and Dan participated in, where  
7 we talked about some of the issues facing reclamation  
8 districts to meet this new Corps expectation that's coming  
9 out of Washington D.C..

10 The Sacramento district certainly is looking for a  
11 balance. And the meeting that we had talked about trying  
12 to meet our obligations associated with DSA, Clean Water  
13 Act, and meet our obligations associated with maintenance  
14 consistent with the O&M manuals.

15 We're moving forward. And I think it's something  
16 that it's important that the Board continue to be actively  
17 involved in.

18 I think this is something that really requires  
19 more public discussion and airing out where these  
20 conflicts exist. It's very difficult, as a maintainer, to  
21 walk this tightrope that we have been having to walk, the  
22 past 30 years, where we have legitimate public safety  
23 issues, and we have obligations to meet federal  
24 regulations associated with DSA and Clean Water Act. And  
25 then we have a whole overlay of state Department

1 obligations too.

2 So we do need some discussion on this. You know,  
3 it might lead to some kind of political issue. Who knows  
4 where it's going to go, but something's got to happen.  
5 And Board involvement is important.

6 Butch?

7 VICE PRESIDENT HODGKINS: Just a question. Part  
8 of what the Corps folks, who were at that meeting, asked  
9 was for an inventory of trees. And for you folks who  
10 represent a local maintaining agency, I know it's a pain  
11 to go out there and count the trees greater than 2 inches  
12 in diameter.

13 But I think part of what's going on here is, we  
14 have folks in headquarters who are used to looking at  
15 levees back east, or maybe never look at levees. I don't  
16 know.

17 And we need to be able to show them some data, to  
18 get them to pay attention to the fact that it's a bigger  
19 issue out here. This is not the district. This is not  
20 division. This is headquarters. We need your help in  
21 getting that information put together.

22 MR. SWANSON: There's activity going on in a  
23 couple of fronts. One is that earlier this week, the  
24 Corps went out to the American River levees at Mayhew and  
25 did a full-blown inspection based on this new criteria of

1 the levees there. And they have prepared a report, and I  
2 think they are forwarding that up to their management.

3 Also, the Department is planning on moving forward  
4 with inspections this year, starting this spring, that  
5 fully document the conditions so that we can deal with  
6 this on a programmatic basis. You know, we've been  
7 dealing recently with the 42 levees that hit the  
8 newspaper -- 42 areas that are potentially going to lose  
9 their FEMA compliance.

10 The problem with this is, this is a subset of a  
11 bigger problem. And until you can get your arms around  
12 the extent of the big problem, you are not going to deal  
13 with it -- be forced to deal with it in a programmatic  
14 fashion.

15 So our expectation with the levee groups, and  
16 we've been talking about this recently, is that we are  
17 first going to send out the new Corps criteria to the  
18 reclamation districts. Then we are going to send out  
19 letters to all the reclamation districts, talking about  
20 this loss of PL 84-99, and update them on the 42 sites  
21 that were identified. And there are, I don't know, eight  
22 or nine that maybe will drop off that list, after the  
23 inspection. But say that this is really happening and you  
24 need to be concerned about it because the new inspection  
25 criteria is out there. And what we're hearing is, you

1 will be held accountable to this new criteria. So we're  
2 going to send that letter out. And then we're going to go  
3 through it and do the new inspections based on this  
4 criteria, and try to capture the extent of the problems so  
5 that it can be dealt with in a programmatic, systematic  
6 manner.

7 VICE PRESIDENT HODGKINS: I'm not sure that  
8 anybody really understands what's going to happen here.

9 I mean, this is a headquarters mandate. And  
10 there's nobody at the district level who has the authority  
11 to overrule the headquarters mandate. And the concern  
12 is -- and there's uncertainty about this, that what is  
13 going to happen is headquarters is going to keep going the  
14 way they are going. And while folks who got a notice of  
15 violation this year have year to clear it up, there's  
16 concern that the next time, under the headquarters  
17 mandate, you are just going to be out if you don't meet  
18 the criteria.

19 So that's going to set up a dynamic here, when  
20 these letters go out, where some of the districts are  
21 going to make decisions about whether they cut the trees  
22 and run the risk of being in violation of CEQA, FEMA, and  
23 potentially the Endangered Species Act or run the risk of  
24 leaving them there, hoping that eventually, you know,  
25 somebody will weigh in here and rescind what headquarters

1 is doing, and they will still be eligible for the PL 84-99  
2 funds. And at least, at the meeting, we heard there's at  
3 least one district who's out there, cutting trees.

4 And I don't know -- there's nothing this Board can  
5 do about that. It is a terrible dynamic, and it is an  
6 example of the kind of -- worst kind of misfunctions that  
7 happen in government. And it's what makes me -- I don't  
8 want to work for government anymore. And yet I know  
9 everybody thinks they are doing their job. It's exactly  
10 what's happening with this condemnation.

11 I am sorry. I am on my soapbox.

12 PRESIDENT CARTER: Let's move on.

13 MR. SWANSON: The last thing. Curt Miller is  
14 here, if you would like to get a five-minute briefing on  
15 legislation.

16 PRESIDENT CARTER: Okay. Yes.

17 MR. MILLER: Good morning, President Carter and  
18 Members of the Board.

19 I'm Curt Miller, currently managing affairs of the  
20 Legislative Office, Legal Department.

21 I have a quick report. You were given quite a  
22 list of legislation pending in your packet, so the source  
23 material is before you.

24 2007 promised to be a watershed year in terms of  
25 flood management in California, and policy development.

1 The administration and the legislature are both committed  
2 to getting policy changes that are meaningful for  
3 California's flood control system, adopt it through the  
4 legislature and hopefully ready for governor's signature  
5 by September, when the current session ends, for the  
6 calendar year.

7           It might be helpful to look at the current menu of  
8 flood management legislation in two-part parcels: The  
9 first, we consider flood protection policy, per se. And  
10 this cadré of bills happens to be addressing key issues  
11 involving flood management policy, including local land  
12 use decisions, assigning of liability for property damage  
13 and personal injury, preparation of floodplain maps,  
14 creation of a state plan of flood control, and long-term  
15 maintenance needs of the state flood control system.

16           Any one of several pieces of legislation carry all  
17 the parts of these policy descriptions. And the process  
18 will sort them out over the spring and summer, as we move  
19 forward in the legislative arena.

20           The list of bills in your meeting packet address  
21 these types of issues, including AB 5, Ms. Wolk; AB 70 by  
22 Mr. Jones, AB 1452 by Ms. Wolk and Mr. Huffman; and SB 5  
23 by Senator Machado.

24           The second group of bills is approximately nine  
25 bills that are proposed to amend the statutes that control



1 the spending under Proposition 1E and Proposition 84.

2 The Legislature has some flexibility and authority  
3 under those statutes, that were approved by the voters in  
4 November, to make non-substantive, but policy direction,  
5 changes in actual language governing those statutes.

6 Many of the bills appropriate money, which has  
7 been directed through the statutes to get programs up and  
8 running: stone water grants, Integrated Regional Water  
9 Management Grants, programs like that.

10 Other parts of the propositions require the  
11 Legislature to establish guidelines for issuing these  
12 grants for various programs. There will be prescriptions  
13 coming forward, from Legislature, on many of these things  
14 in the next few weeks, as the details are worked out.

15 Other issues involved -- in the propositions  
16 involve operations for the Department to do what they need  
17 to do in terms of emergency operations and long-term levee  
18 evaluations under the monies that have been appropriated  
19 through the propositions.

20 Some of the key issues addressed by this set of  
21 bills include relief from state contract provisions that  
22 might delay emergency response activities; provisions for  
23 completion of bonuses for contractors; requirements for  
24 seismic evaluations of levees; and study of the operation  
25 of the state water supply system.

1 Bills addressing these issues include AB 1452,  
2 again by Ms. Wolk; SB 378 and SB 732 by Senator Steinberg.  
3 They are great supporters of the reforms we need in the  
4 flood management system and implementation of the spending  
5 and policy provisions of the initiatives passed by the  
6 voters last fall.

7 That will conclude my brief report. Any  
8 questions? I would be happy to answer.

9 PRESIDENT CARTER: Any questions for Mr. Miller?

10 MEMBER BURROUGHS: I don't have a question, but I  
11 would like a business card. Thank you.

12 MR. MILLER: I will provide you one. Thank you.

13 PRESIDENT CARTER: Thank you very much.

14 Anything more, Mr. Swanson?

15 MR. SWANSON: No.

16 PRESIDENT CARTER: We'll go ahead and take a  
17 ten-minute recess and then continue with our agenda.

18 (Thereupon a break was taken in  
19 proceedings.)

20 PRESIDENT CARTER: Ladies and gentlemen, if  
21 everybody could take their sets, please, we can go ahead  
22 and continue.

23 We are now on Item 7, State of Emergency - Board  
24 Actions.

25 Mr. Punia?

1           GENERAL MANAGER PUNIA:  Jay Punia, General  
2   Manager, Reclamation Board.

3           I just wanted to inform the Board that there was  
4   no action taken by the Reclamation Board staff, on behalf  
5   of the Board, in response to the emergency declaration.

6           That's it.  Thank you.

7           PRESIDENT CARTER:  Thank you, Mr. Punia.  I will  
8   now move on to Item 8, Three Rivers Levee Improvement  
9   Authority.

10          We have three topics here under this.  There's  
11   monthly report, summary of permits and status, and update  
12   of the Yuba River Levee Raise Hydraulic Impact Analysis.

13          We will take these in order, and separately.  So  
14   Mr. Brunner.  Good morning.

15          MR. BRUNNER:  Good morning, President Carter,  
16   Members of the Board.

17          We have turned in two reports to you -- the  
18   monthly report, and we also have the supplemental that we  
19   gave you this morning.  In the essence of time, I know  
20   that Mr. Bradley will be giving reports to you, that I  
21   just referenced.

22          I ended up deciding to summarize the five main  
23   bullets, here, that I would like to talk about,  
24   recognizing there may be discussion about other items on  
25   our reports.  But I would like to keep my presentation to

1 these five items that are listed here.

2 The first item that I have listed is the State  
3 Reclamation Subcommittee Meeting. And what I'm going to  
4 note there is that we did meet on the 26th of February in  
5 Marysville. Thank you for coming. I think it was a good  
6 discussion. That discussion continues on, on March 22nd.  
7 And it's in the afternoon, at 1 o'clock. And I think that  
8 will be a very good discussion too.

9 The agenda for that meeting is on the Web page  
10 now. And it has a multitude of discussion topics that  
11 we'll be going through.

12 The second topic, that I have on my slide, deals  
13 with the Corps of Engineers certification. If you look at  
14 our reports, there is a long list of items that we've been  
15 working through, with the Corps.

16 At the last meeting, I gave you a Corps of  
17 Engineers letter on certification, dated 30 January, that  
18 talked about what -- what we needed to do to obtain  
19 certification. We made, I think very good progress. If  
20 you look through the items I have listed through there as  
21 being completed, there remains one item still to be done.  
22 And that's Item A on that listing. And it deals with  
23 construction records to verify that the levees were built  
24 according to the design. And that's very important. It's  
25 a QAQC review of the documents that we have. We made good

1 progress. We have turned in our construction reports. We  
2 have been working back. The Corps has gone through those  
3 construction reports and made comments, and we've  
4 responded back to those comments. So we're closing in on  
5 that.

6 I can't tell you today, in front of you, that  
7 that's done. But we're getting very close. Just this  
8 week, some key members of the Corps were not available.  
9 They were actually on leave during the week. So hopefully  
10 by the time we meet next week, on the 22nd, I can give you  
11 a much more positive response and have the certification  
12 in hand.

13 If not, I think it will come soon thereafter.

14 The next item that I'm going to move to is the  
15 Levee Design and Construction Work. And I'm going to keep  
16 it to just a couple items under this area. There are four  
17 items that I would like to report: One on the Western  
18 Pacific Interceptor Canal; two on the Yuba; and one on the  
19 Feather.

20 On the Western Pacific Interceptor Canal, there  
21 was a short portion of the Interceptor over by the  
22 Olivehurst Detention Basin, that we needed to raise a  
23 little bit, based upon the certification process. We've  
24 done that. That was done under an encroachment permit,  
25 17782. And that was also done under an extension that was

1 granted to us by the Board. That is completed.

2 Last week -- or last month, we had a long  
3 discussion on the detention basin located over by the  
4 Caltrans detention yard.

5 I think that will be a subject later on, in the  
6 meeting today, another topic. But we did turn in, for  
7 note here, an encroachment permit, as we promised to do,  
8 to the Board. And staff has that. They are waiting for  
9 your response today on how to proceed with that particular  
10 application.

11 But I wanted to let you know, based upon our  
12 agreement that we had at the last meeting, we turned that  
13 in, and we're waiting for that process to go through, for  
14 being approved.

15 We've also turned in a permit to repair a scrape  
16 that was on the Yuba levee. This came up during our  
17 subcommittee meeting, where it was noted that there was a  
18 scrape over by the seepage berm. We have been  
19 investigating that, worked through that, and turned in a  
20 permit variance to the Board, which they've approved. And  
21 we plan to go out -- it's dry weather now -- and fix that  
22 very soon and move forward on that.

23 The last item on this particular bullet is the --  
24 where we are on the Feather River. The Segments 1 and 3  
25 on those design drawings are nearing completion. We hope

1 to go out for a bid on that, in the April time period, and  
2 open those bids and hopefully make an award in the  
3 May/June time period, to start that work this construction  
4 season. And you will hear more about that at the May 22nd  
5 meeting.

6 On the fourth bullet, where it says TRLIA and  
7 developer outreach and notification, this has some, I  
8 think, special note to the Board members. There was some  
9 concern about the developer's marketing agents, not  
10 necessarily really knowing about what's happening in the  
11 flood, and the messages that they are putting out.

12 We have had a discussion with the developers. And  
13 it was a good discussion, back and forth, that the buyers  
14 and the sellers really need to have full disclosure.

15 On the 21st of February, it was at least the first  
16 meeting, probably there will be more meetings in the  
17 future, too, to ensure that everything is right.

18 But the Plumas Lake Cooperative Marketing Group,  
19 it's really sponsored by the development group, got  
20 together with all their buyers, all the developers. TRLIA  
21 was represented. Mary Jane Griego, TRLIA Board member,  
22 and a member of Yuba County Board of Supervisors was  
23 there. We had a chance to work with all those sellers and  
24 the developers about what we have. We encouraged them.  
25 In fact, they said that they would have a brochure,

1 talking about what we're doing on our levee work, to make  
2 sure that they understand that there is a potential flood  
3 hazard in the area, and gave them our Web site. And so  
4 the outreach, as people come into the showrooms, they see  
5 the homes in Yuba County. They will see the information  
6 about flooding and have full disclosure. So I think that  
7 was a very positive event.

8 And then my final item that I wanted to highlight  
9 for you was on the building permits. And I do have a  
10 slide here for that, that I will go back and present.

11 In the month of January and February, so far, Yuba  
12 County has issued 127 building permits. And you can see  
13 that it's somewhat on the uptick, rises as we go,  
14 cumulatively, over the years. But it's not skyrocketing  
15 yet, in the marketing. So hopefully, that turns around in  
16 the market. But that's current status of where we are on  
17 building permits.

18 And with that, I'm finished. And if there's any  
19 particular questions?

20 SECRETARY DOHERTY: I have a question for you.  
21 The Bair River Setback Area, all the restoration work has  
22 been done. How long do you estimate it will be before you  
23 have to go in and clean that out? And who is going to be  
24 responsible for cleaning that area?

25 MR. BRUNNER: How long it will take is several



1 years away. The -- we have under contract with River  
2 Partners to maintain that area for three years.

3 SECRETARY DOHERTY: How many years?

4 MR. BRUNNER: For three.

5 And then we also have an arrangement that we're  
6 working with -- the Corps of Engineers must create an  
7 endowment. And we're working with the Department to do  
8 that, that will maintain that forever, in that particular  
9 area. But that endowment that we set up will maintain.

10 SECRETARY DOHERTY: Okay.

11 PRESIDENT CARTER: Any more questions for  
12 Mr. Brunner?

13 Okay. Thank you.

14 I have several cards here. Mr. Foley, did you  
15 want to speak specifically about the Three Rivers report?

16 MR. FOLEY: I will pass till --

17 PRESIDENT CARTER: Okay. Mr. Smith? Did you want  
18 to speak specifically with regard to the monthly report  
19 from Three Rivers?

20 MR. SMITH: Yes, I do. Things moved a little  
21 faster than I thought they would.

22 I'm Dale Smith with Concerned Citizens for  
23 Responsible Growth.

24 One of the things that I am troubled with all the  
25 time is the past history. And I remember, so well,

1 meetings in this board, when Dr. Jeffrey Mount was here.  
2 He made a lot of statements and asked a lot of questions.  
3 I regret that he's no longer here, because he had  
4 pertinent questions based on a huge amount of experience.

5 But he also addressed the Yuba County Board of  
6 Supervisors on May 22nd, 2004. And he said to them a very  
7 startling statement. He said, "You said, come hell or  
8 high water, literally or figuratively, we're going to  
9 build." And that's exactly what has been happening.

10 And the 2005 price tag was 250 million or more for  
11 the whole process, with Three Rivers Levee Improvement  
12 Authority's been called into serious question by Dr.  
13 Mount. He's a geology professor at the University of  
14 California, Davis, and as I said, a former Reclamation  
15 Board member.

16 And what he said then is, "It is a cause of  
17 concern, because I think we're seeing, and as this goes  
18 through here, in despite of this rosy report we've just  
19 heard, that there are some real difficulties with regard  
20 to funding involved in this process."

21 And he said -- and he addressed the supervisors.  
22 He said, "You're building a house of cards. If someone  
23 pulls one of the cards out, people are left at risk. I'm  
24 willing to bet my house that \$250 million won't be enough.  
25 We have a long history of these things going way over

1 target than the original estimates."

2 I think we've heard a little bit about that  
3 already, today, with other issues.

4 He said, again, repeating, "You said, come hell or  
5 high water, literally or figuratively, we are going to  
6 build nearly 2000 homes in Plumas Lakes in the  
7 floodplain."

8 And I don't think, from what I see today, that  
9 that has really totally been solved yet in terms of the  
10 real -- the real danger that there is to where people  
11 live.

12 We were promised, earlier this year, with regard  
13 to the levee at 0.79 that you are going to have 200-year  
14 flood protection. Well, it's even questionable where we  
15 can get a hundred-year flood protection. But I just  
16 wanted to tell you what I think is really necessary.

17 And this is a quote from Dr. Rodney E. Emmer,  
18 Association of Floodplain Managers, Executive Director of  
19 the Louisiana Flood Management Associations; and General  
20 Jerald E. Galloway, BEPE, University of Maryland. He  
21 said -- or they said, in testimony before Congress,  
22 October 20th and 27th, 2005, "In urbanized areas, where  
23 the impacts of flood damages are catastrophic, federal  
24 flood control projects should be designed to provide  
25 protection at or above the 0.2 percent, brackets, 500-year

1 flood level."

2           Now, why -- tell me, Reclamation Board members,  
3 why should California citizens settle for anything less?  
4 And then, in a few minutes, when we come to the other  
5 issue of the permits, that I want to speak on, in Issue  
6 No. 10, I would like to go into that in a little bit more  
7 detail.

8           But the DWI director, Lester Snow, on  
9 November 1st, 2005, he said, "Failed Central California  
10 levees would cause major floods, threaten public safety,  
11 damage the water supply, infrastructure, and jeopardize  
12 the state's economy."

13           The San Francisco Chronicle, in 1/18/2006 said,  
14 "The Central Valley's levees protect 500,000 people and  
15 property valued at \$47 billion."

16           I have watched, this morning, you are wrestling  
17 with a very serious problem. And I commend you for the  
18 good work you are doing and commend you for your concern.

19           This is a serious concern. And I think you must  
20 be a little bit cautious, and think through carefully  
21 about the reports that you are getting out of TRLIA. I'm  
22 not so sure that it is as rosy as they think it is, and I  
23 would urge you to be very cautious and careful.

24           Thank you.

25           PRESIDENT CARTER: Thank you.

1           Mr. Archer, did you want to speak with regard to  
2 the monthly report?

3           MR. ARCHER: I do, sir.

4           I am Rex Archer from Linda.

5           Thank you, Mr. President. One of the things we  
6 keep hearing is "completed." The word "completed" means  
7 completed.

8           Now, Three Rivers has, over and over, said, this  
9 is completed. On this one right here, "construct keep  
10 package berm and install monitoring wells along the Yuba  
11 River, between station 35 and 3900."

12           Now, that -- Lady Bug you were there. Is that  
13 sand berm that they were to build, which wasn't built,  
14 then they finally built it? All right. That's that.

15           Next one is February the 2nd, for today's  
16 meeting -- he was going to speak on it, but I guess he  
17 didn't. "Construct seepage berm and install monitoring  
18 wells along the Yuba Levee, between station, once again,  
19 of 3500 and 3900. This work has been completed."

20           We move on to another one, February 16th, at the  
21 request of the Corps, "The seepage berm Cemex," -- that's  
22 at the Cemex plant -- "adjacent and easterly of the Union  
23 Pacific railroad was completed. Also, at the Corps'  
24 request, two monitoring wells have been installed at that  
25 seepage berm."

1           Then we'll go to No. 5. "Construct seepage berm  
2 and install monitoring wells along the Yuba Levee between  
3 Section 3500 and 3900. This work has been completed."

4           These are all different dates and times, Mr. Vice  
5 President. And then we go over here, to -- where it says  
6 from -- that they would do nothing to damage the flood  
7 control. "We would take no action." This is Mr. Paul G.  
8 Brunner, EE, executive director, Three Rivers. "We would  
9 take no action to jeopardize the work we have  
10 accomplished, nor would we take any action that would  
11 reduce the reliability of the Sacramento River flood  
12 control system."

13           Now, I'm going to try to put a picture here. I --  
14 please. Maybe it will go. Maybe it won't. Oh, yes, we  
15 can see it. Thank you for offering there.

16           First thing we are going to do is that -- okay.  
17 That is the sand berm -- can you see that? That is the  
18 sand berm in question. The cement plant is right behind.  
19 Now, that sand berm, you see, does not belong to the state  
20 or anybody. That belongs to that ready-mix company. It's  
21 got nothing to do with the sand berm.

22           Now, move over here, right here is where that sand  
23 berm should be. That sand berm should go up the side of  
24 this, as it's stated in its regs, up the side of this  
25 berm, this spur. Some of you saw it when you were there.

1 It should come right here and come up to there. 10 feet  
2 tall. To do that -- this is a brand new fence -- you  
3 would have to tear that fence down. That work is  
4 completed.

5 Look over here. Let me move to another one,  
6 please. This is the other side of that. Over here is  
7 where I was pointing a while ago. This is the other side.  
8 And once again, the ready-mix company in the background.  
9 "Completed." A sand berm completed. It looks to me  
10 like -- and I am an ex-ready-mix owner and stuff. It  
11 looks to me they just dumped sand on the ground and left.

12 And Mr. Brunner was there. I met him there one  
13 day. And I said -- well, I'm not going to say what I  
14 said. But he saw this. He observed this completion.

15 Once again, we've got a close-up here of the  
16 railroad spur track, which this is the levee, the railroad  
17 levee. There's railroad tracks. This is the spur. And  
18 from down here, this is supposed to come here and go up,  
19 cut into this levee, take it away, put new levee in,  
20 10 feet high. That would make some sense, ladies and  
21 gentleman. Then when the water comes from here and seeps,  
22 it would go through and seep and stop.

23 Now, if it comes through there, it's going to roll  
24 over the top of that sand and flood east Linda.

25 PRESIDENT CARTER: Mr. Archer --

1           MR. ARCHER: I'm not through. This is heavy  
2 stuff.

3           PRESIDENT CARTER: This is heavy stuff. This is  
4 important stuff. You've got one more minute.

5           MR. ARCHER: I thank you.

6           I'm having a hard time getting my message out  
7 Mr. President.

8           Here is the levee thing they said they were going  
9 to fix some time. It's always after the fact when they  
10 want to fix this. It's never before the fact, when they  
11 were told about it.

12          We have told this Board and their boards -- I have  
13 stood before it and told them about this. That stretches  
14 from way back here all the way over to here. And this is  
15 the sand berm that was put there in 2005. That's sitting  
16 there and it's open and it has went through what winter  
17 we've had. And the rain comes this way. It doesn't go on  
18 they other side. It comes and hits that.

19          I don't want to take up all of your time, Mr.  
20 President.

21          I'm sorry that you don't want to go into it  
22 anymore, but if that isn't enough, sir, to pull their  
23 permits and remove them from the levee business and return  
24 the state of California and others, federal, back to  
25 putting real money in levees and not pretending they are



1 done, you should stop this today for the safety of the  
2 people, or if you continue going on their side. I  
3 wouldn't want to be on your side after the next flood.

4 Rex Archer, Linda. Thank you.

5 PRESIDENT CARTER: Thank you.

6 SECRETARY DOHERTY: Mr. Brunner, I have a question  
7 for you.

8 You probably got the answer. Maybe other board  
9 members know. That cyclone fence that was put in after  
10 the berm was finished, is that an encroachment on the  
11 levee?

12 MR. BRUNNER: I'm going to ask my engineer and my  
13 construction agent to be precise for you, Lady Bug, and  
14 come forward. So Ric and HDR?

15 MR. REINHARDT: Ric Reinhardt, program manager,  
16 Three Rivers Levee Improvement Authority.

17 The fence was a part of our project description.  
18 It was included in the encroachment application that we  
19 submitted, to keep people off of the sand berm.

20 SECRETARY DOHERTY: Ah, I see.

21 PRESIDENT CARTER: Thank you.

22 SECRETARY DOHERTY: Thank you, Ric.

23 PRESIDENT CARTER: Any other questions for any of  
24 our speakers?

25 MEMBER BURROUGHS: I have a question for staff.

1           PRESIDENT CARTER:   Okay.

2           MEMBER BURROUGHS:   Staff, if you could answer the  
3   question.   I have a question about the 10-foot tall berm  
4   that was supposed to be built.

5           CHIEF ENGINEER BRADLEY:   Steve Bradley, chief  
6   engineer for the Reclamation Board.

7           It was not to be 10 feet deep.   It was somewhere  
8   in the neighborhood of around 5 feet.   I don't know if DWR  
9   inspectors have verified that.   The permit -- but it was  
10   not a 10-foot deep berm.   To my knowledge -- I need to  
11   check this -- I don't believe the fence was part of the  
12   permit, but we'll have to check that.

13          MEMBER BURROUGHS:   Thank you.   Is there anyone  
14   from DWR that could answer the question about the sand  
15   berm?

16          CHIEF ENGINEER BRADLEY:   I don't believe the  
17   inspectors are here.

18          PRESIDENT CARTER:   So if you could follow up with  
19   the inspectors and get back to the Board with regard to  
20   the compliance.

21          CHIEF ENGINEER BRADLEY:   We'll do that and follow  
22   up next month, or someone will.

23          PRESIDENT CARTER:   Thank you.

24          Okay.   Any other questions?

25          Let's move on to a Summary of Permits.

1 Mr. Bradley?

2 CHIEF ENGINEER BRADLEY: For the record, Steve  
3 Bradley, chief engineer to the Reclamation Board.

4 (Thereupon an overhead presentation was  
5 presented as follows.)

6 CHIEF ENGINEER BRADLEY: The Board, last month,  
7 asked that staff provide them a discussion of all the  
8 permits we've issued for Three Rivers Levee Improvement  
9 Authority. There have been a number of them. This will  
10 take some time. Hopefully, we can move right along, but  
11 this is a very large project overall, and there are a lot  
12 of details.

13 --o0o--

14 CHIEF ENGINEER BRADLEY: This kind of shows, more  
15 or less, where the permits are. The northern ones are  
16 along the Yuba river. The southern ones are along the  
17 Bair. The middle, red, are more or less along the  
18 interceptor canal. The green is the Feather River. That  
19 will be a permit. That is coming forward.

20 --o0o--

21 CHIEF ENGINEER BRADLEY: The first permit we  
22 issued -- and the way I'm going to cover these is the  
23 order in which we issued them. It is the order I'm most  
24 familiar with, and it's the way they came before -- either  
25 came before the Board or staff dealt with the permit.

1           First permit we issued was 17828, the first slurry  
2 wall along the Yuba river levee. The application was  
3 filed in August of 2004. It was to construct 2200 linear  
4 feet of slurry wall.

5           We signed the permit in September of 2004. It was  
6 issued by staff.

7           We issued one variance for this, to allow material  
8 to be placed along the levee rather than carted off.

9           I -- that was pretty straightforward. Probably  
10 knowing what I know today, I'm not sure staff would have  
11 issued the permit, for the slurry wall. But at the time,  
12 there was a lot of pressure to move this project. And we  
13 felt susceptible to that.

14          If you have any questions as we go through these  
15 permits --

16          SECRETARY DOHERTY: Why would you feel differently  
17 today about the slurry wall?

18          CHIEF ENGINEER BRADLEY: Well, it's a very complex  
19 subject, but I think this is a modification of the  
20 project. That's my view of it. And I think that this  
21 probably requires, I think, coordination with the Corps  
22 and it probably requires a Board decision. That's just my  
23 opinion of it. Because this is a modification. This  
24 isn't the way it came to us. I think it's an improvement  
25 to the system. I think it's needed. But how you get

1 these things taken care of and moved into being part of  
2 the project, it is a key question. Right now, this is  
3 just an encroachment. It's considered to be like a set of  
4 steps or a boat dock or something else. And it's not. It  
5 is an improvement to the system. And I would like it if  
6 somehow we incorporate it at the Corps -- that the Corps  
7 will incorporate it into the operation and maintenance  
8 manual as part of the project, a flood control feature.

9 We really don't have a process. We have a process  
10 for issuing permits on encroachments. We have a process  
11 for doing projects with the Corps. We don't have a  
12 process to take an encroachment and move it into a  
13 project.

14 And so there's -- we're going to see a lot of  
15 this. This was sort of the beginning of the development  
16 money that was available for private entities or local  
17 entities to start making modifications to the projects.

18 So we're seeing a lot of these. I think the  
19 process needs to be worked out between the Rec Board and  
20 the Corps.

21 MS. RIE: Can I ask a question?

22 CHIEF ENGINEER BRADLEY: Yes.

23 MEMBER RIE: Sorry. At the time, I guess a permit  
24 was issued in 2005?

25 SECRETARY DOHERTY: 4.

1 CHIEF ENGINEER BRADLEY: 2004.

2 MEMBER RIE: 2004? At the time that it was  
3 issued, did the Corps review the permit?

4 CHIEF ENGINEER BRADLEY: They get a copy of it.  
5 But, you know, their permit review is only about 5 percent  
6 of their actual job. They also -- and the Sacramento  
7 Valley is a very small part of their area, which goes all  
8 the way over to Colorado, Wyoming, and I don't know how  
9 far south.

10 MEMBER RIE: But we sent it to them; right?

11 CHIEF ENGINEER BRADLEY: We sent it to them.

12 MEMBER RIE: Okay. Thanks.

13 VICE PRESIDENT HODGKINS: Steve, I'm just kind of  
14 watching these from SAFCA at the time.

15 Is this a permit that was in connection with  
16 additional work, to be sure that the Yuba River levee  
17 didn't fail? Or was this work to provide a higher level  
18 of flood protection?

19 I mean, I recall that there was one case, when all  
20 of a sudden, it became apparent that there was a levee  
21 that clearly didn't meet current criteria for even the  
22 design condition.

23 CHIEF ENGINEER BRADLEY: This has severe seepage  
24 problems identified along here. It didn't have -- for the  
25 federal design project, it didn't have elevation problems.

1 But the seepage problems in this area are fairly well  
2 documented. At the end of this, to the right, is the  
3 break area, 1986 break area.

4 PRESIDENT CARTER: Where that line goes across?

5 CHIEF ENGINEER BRADLEY: Yeah. The blue line is  
6 the slurry wall. Probably actually goes a little bit  
7 further than it should. But it's about right where that  
8 area is.

9 You can see, this area is really, more or less,  
10 just a scour wall, I believe. I'm not all that familiar  
11 with it. I'm not a geotechnical engineer. But I believe  
12 the failure came through this area.

13 MEMBER BURROUGHS: Did the slurry wall correct the  
14 seepage problem?

15 CHIEF ENGINEER BRADLEY: Hopefully. We won't know  
16 how well seepage walls work that we've done in the  
17 Sacramento region. Many millions -- tens of millions of  
18 dollars in work. And we won't know if those actually work  
19 until we have a very large flood event, to see if they  
20 work.

21 MEMBER BURROUGHS: To follow up with public  
22 comment today, with this permit, is it complete?

23 CHIEF ENGINEER BRADLEY: To my knowledge. That's  
24 one thing I didn't do today. You know, I didn't go  
25 through each of these items and say "complete" or "not

1 complete."

2 My time was actually -- I had some of this done.

3 But Dan Fua and Steve Dawson put all this together for me.

4 Dan did the PowerPoint. Steve put the list together for

5 me. I was working on the NRDC brief most of the time that

6 this was all being prepared.

7 And I didn't think about directing them to look,

8 you know, go through each item and say whether it's

9 complete or not. If that is of interest, we can follow up

10 with that next month and see what's complete and what's

11 not.

12 But to my knowledge, this one's complete. I mean,

13 at least the slurry wall is complete.

14 MEMBER BURROUGHS: Thank you.

15 CHIEF ENGINEER BRADLEY: They actually completed

16 it that year, and didn't take all that long to do.

17 MEMBER RIE: Steve, would feel more comfortable to

18 come back next month, when you've had a chance to look

19 more carefully at these permits?

20 CHIEF ENGINEER BRADLEY: No. I know the permits.

21 You wanted to know what was authorized, you asked what was

22 asked for, and what was issued. And this is what this is.

23 I have five pages here. So like I said, we'll need a

24 little bit of time.

25 MEMBER RIE: Okay.



1           MEMBER BURROUGHS: Mr. President?

2           PRESIDENT CARTER: Yes.

3           MEMBER BURROUGHS: Would it be appropriate to have  
4 comment on each one of these so that we can better  
5 understand it, with the issues that were brought by the  
6 public today?

7           PRESIDENT CARTER: I think it would be better to  
8 go through the list and understand all the permits  
9 collectively and then discuss them.

10          CHIEF ENGINEER BRADLEY: The next permit and this  
11 is probably the most complex of all the permits, is 17782.  
12 It was issued by the Board. It was issued by the Board.  
13 Let's see, we first had a filing on this, in April of  
14 2004, for an application. It was kind of a generic  
15 description; all the details weren't there.

16          About September of 2004, the applicant added a lot  
17 of details and came back with more complete things and  
18 added a lot of stuff to it, to the application. And the  
19 permit was actually issued in -- about the following area,  
20 in May of 2005.

21          The first part of this is the construction of the  
22 back up levee. And that's now the setback levee. At this  
23 time, it's a back-up levee. The green dashed line shows  
24 the project levee. The red line shows the back-up levee.  
25 That was constructed behind that, at the time.

1                               --o0o--

2               CHIEF ENGINEER BRADLEY: The second part of this  
3 is work along the Bair River. There was some light,  
4 slight levee raises in this region. And there was some  
5 toe rock that was placed in this region. And this is  
6 along the Bair. You can see the interceptor canal here.  
7 This is the Bair River floodway coming up there.

8               So we've had a backup levee. We've had some minor  
9 work on the Bair River, some light levee raises, and some  
10 toe rock placement. There is also a pump station  
11 relocation. They took the Algodon pump station. I  
12 believe we saw some of that on a field trip up there. And  
13 they relocated that pump station about 200 feet away from  
14 the project levee. And that was kind of nice, because it  
15 was right, adjacent to the levee. They moved it in, moved  
16 it back about 200 feet, and they filled it out. Just  
17 makes it a lot longer seepage path for any seepage that  
18 comes from the Bair River.

19                               --o0o--

20               CHIEF ENGINEER BRADLEY: The next thing are the  
21 improvements along the interceptor canal. And there's  
22 quite a few of these. There's some levee raises in this  
23 area. There's -- they filled the landside toe ditch.  
24 There's a toe ditch that went along here. They filled  
25 that again, reducing excavation along the levee and

1 reducing the seepage path. They constructed a little  
2 piece of slurry wall. You can see, that's in the north  
3 area up here. And they did some waterside riprap in that  
4 same area.

5 So as you can see, there's a lot of pieces to  
6 this. This permit ran over quite a bit of time. Most of  
7 this is done. I think there's some details to be  
8 completed on that. But most of it's done.

9 On this project, we issued five variances, all of  
10 them for time extensions during the flood season: one in  
11 October of 2005; one in December of 2005; one in October  
12 of 2006; November 2006; and one again in January of 2007.

13 As long as the weather is good and water is not  
14 high, variances are certainly appropriate to continue  
15 work.

16 So we -- I, I guess I should say, was sort of  
17 lackadaisical until 2006. We had several years of fairly  
18 dry weather, and just kind of approved several variances.  
19 There was a big opening on the American River that got me  
20 very concerned in 2006. So I've taken a much tougher  
21 look, although, this has been very good year to do work;  
22 there's not been a lot of high water.

23 --o0o--

24 CHIEF ENGINEER BRADLEY: The next permit is 17921.  
25 It consists of construction of seepage berms. This is all

1 work on the land side of the Yuba River. This is the big  
2 seepage berm, and then there's a little one, if you  
3 notice, clear over to the left, there's a little piece  
4 over here, on the other side of the highway. Primarily,  
5 it was this reach in here.

6 The original -- the original application also had  
7 a seepage berm right over in this area. That's the one  
8 you just saw a picture of that, that Mr. Archer said was  
9 not deep enough.

10 That was not approved. There was work in there  
11 that actually got moved to the permit, that did the slurry  
12 wall for the reach to the east. So although they  
13 requested it, that was not issued as part of this permit.  
14 They refer to this as reach A and B, C, and D along here,  
15 on the other side of this railroad, that's reach E.

16 SECRETARY DOHERTY: What is the little blue mark  
17 in the green field?

18 CHIEF ENGINEER BRADLEY: Right over here?

19 SECRETARY DOHERTY: No. North.

20 CHIEF ENGINEER BRADLEY: This?

21 SECRETARY DOHERTY: Yes.

22 CHIEF ENGINEER BRADLEY: That is a legend. Sorry.  
23 That's for seepage berm. That's the legend.

24 The permit staff actually called this Site 1 and  
25 then Site 2. And they combined all B, C, and D into one

1 site, because although Three Rivers had broken it up in  
2 their reaches, we just considered it two different  
3 sitings.

4 We issued two variances for this project: one in  
5 October of 2005 and the other in December of 2005. And  
6 finally, we issued one yesterday for some minor work that  
7 was the -- they showed -- Mr. Archer showed where there  
8 was a step down along the levee, where I think they cut  
9 the levee about the foot and a half, about. We saw it  
10 when we were up on the field trip, what, six weeks ago,  
11 maybe.

12 And so they've asked to repair that. Weather is  
13 very good. They are waiting for the material to be dry  
14 enough. It has been dry long enough but they feel they  
15 need work in that area. We issued a variance to proceed  
16 with that work. I mean, in about a month, they can  
17 proceed with work anyway. This just moves it along.

18 Yes?

19 MEMBER BURROUGHS: Unless I missed it, did you  
20 tell us what day this application came in and what day it  
21 was approved?

22 CHIEF ENGINEER BRADLEY: No, I probably did not.  
23 It was filed on March of 2005. We issued it in April -- I  
24 mean, July of 2005.

25 MEMBER BURROUGHS: And as you stated earlier, for

1    this particular -- it is not complete; is that correct?

2               CHIEF ENGINEER BRADLEY:  I think, in general, this  
3    work is complete, except they are doing repair under this  
4    permit, on the variance for the cut along the levee.  You  
5    know, the applicant can probably tell you exactly what --  
6    they are out there, day in and day out.

7               Once we issue a permit, the Board staff is more or  
8    less out of the construction phase.  That goes to DWR and  
9    the inspectors.  You know, it's nice to get out in the  
10   field, but it takes a lot of time.

11              PRESIDENT CARTER:  Go ahead.

12              GENERAL MANAGER PUNIA:  Just a clarification.

13              Jay Punia, general manager.  Our standard  
14    procedure is that the inspection section of the Department  
15    of Water Resources, once the applicant informs the  
16    inspection section the project has been finished, then  
17    they will go back and verify with the applicant that the  
18    construction has been finished.  They will inspect it, and  
19    then they will close the permit.

20              When the permit is open, that means they haven't  
21    completed the final inspection to make sure the work has  
22    been done on that encroachment permit.

23              MEMBER BURROUGHS:  And then does DWR send us a  
24    copy of the final inspection and completion?

25              GENERAL MANAGER PUNIA:  I think that those

1 permits, they provide us a listing that these are the  
2 closed permits and these are still open permits. We have  
3 a database in which they are listed that, which permits  
4 are open and which are closed. If they're closed, means  
5 that the inspection is satisfactory to the Department of  
6 Water Resources inspectors. We, at the Rec Board, don't  
7 have that staff capability.

8 MEMBER BURROUGHS: Understand. Thank you.

9 VICE PRESIDENT HODGKINS: Steve?

10 PRESIDENT CARTER: Go ahead.

11 VICE PRESIDENT HODGKINS: There is a little piece  
12 of blue, down at 70 and the levee. Was that actually a  
13 piece of work?

14 CHIEF ENGINEER BRADLEY: Yes, that is. That's  
15 Site 1. That's a small seepage berm in that area.

16 VICE PRESIDENT HODGKINS: Is it a berm?

17 CHIEF ENGINEER BRADLEY: Yeah, small seepage berm  
18 in that area.

19 PRESIDENT CARTER: Mr. Archer, we're going to  
20 continue with the staff presentation. Please hold your  
21 comments.

22 MR. ARCHER: Okay. I thought he came clear back  
23 to that again.

24 PRESIDENT CARTER: He's not done with his review  
25 of the permits.

1           MR. ARCHER: Oh, the second time. On 17921.  
2 We're on it for the second time now. Okay. That's where  
3 we are.

4           PRESIDENT CARTER: We are on it and we haven't  
5 left it.

6           Go ahead, Steve.

7                               --o0o--

8           CHIEF ENGINEER BRADLEY: The third permit is  
9 17942. This was not issued to Three Rivers Levee  
10 Improvement Authority. It was actually issued to Yuba  
11 County. Essentially it was all the same people.

12           This was construction of the detention basin ring  
13 levee and pump station at the upper end of the WPIC. This  
14 was approved by one of the first actions that this Board  
15 took.

16           Detention basin, ring levee, and pump station.  
17 This is the WPIC -- the Western Pacific Interceptor Canal  
18 comes up this way and turns and runs over this way.

19           Historically, we have flood easements up in this  
20 area. They were not brought to a high enough elevation,  
21 it is my understanding, to allow for the back water that  
22 comes from the Bear-Feather system. And so water would  
23 back all the way up and flood the town of Olivehurst,  
24 which is north of here a ways. And so this was the local  
25 solution to that.



1           And like I said, the Board approved this. And  
2   this was filed in May of 2005, and the Board, I think,  
3   approved this in either January or December. The permit  
4   was actually signed in early February of 2006. And I  
5   said, it was issued to Yuba County. This isn't, per se, a  
6   Three Rivers permit, but essentially all the same people.

7                               --o0o--

8           CHIEF ENGINEER BRADLEY: The next permit is  
9   17979BD. This was also issued by the Board, essentially  
10  the same meeting as the detention basin.

11           This is the backup levee that was constructed.

12           This permit allowed -- by the Board, allowed Three  
13  Rivers to degrade these portions of the federal project  
14  levee, and use that fill to build the backup levee.

15           There were also some other things that occurred in  
16  this permit: There was an orchard removal. They removed  
17  the orchard out here, in the floodway. This orchard had  
18  matured. The flows were deep enough that it was up into  
19  the crown of the tree and therefore caused an impediment.  
20  There's been estimated about 1 foot of hydraulic rise --  
21  one, one and a half feet -- caused by this impediment of  
22  the orchard. So it was beneficial to remove the orchard.

23           There's also -- this area was revegetated. Part  
24  of permit was to leave this overflow area vacant so that  
25  you could get flow in here, during high quarter, and come

1 down through this area. And because of the flow that  
2 would come down here, there were fish stranding issues.  
3 There's a swale that kind of redirects the water back into  
4 the Feather River. So that was all part of this permit.

5 We did -- the original permit was filed in July of  
6 2005. We issued this originally in February of 2006,  
7 after the Board approved it. The description said 10,000  
8 cubic yards. Well, it turns out, actually it was 600,000  
9 cubic yards. So the permit was revised and issued --  
10 reissued in March, to correct the amount of material so  
11 that the volume was right.

12 We also changed some of the wording to say, rather  
13 than non-vegetative, that this would be maintained as open  
14 grassland, savanna, for the overflow area, so as not to be  
15 any shrubbery or trees planted in this area. So it's just  
16 a grassland area for flowage.

17 --o0o--

18 CHIEF ENGINEER BRADLEY: Next permit was 18095.  
19 This is the slurry wall that we've been talking about.  
20 And it's a long one, along -- this is what Three Rivers  
21 has called Reach E in a lot of their things.

22 It went from the Southern Pacific Railroad to  
23 about 800 feet past Simpson Lane. And that's where the  
24 slurry wall is placed in. There's also some resloping of  
25 the waterside shape of the levee in this area.

1           There's also construction of the little seepage  
2   berm that I said was not included in 17921. This was the  
3   one that Mr. Archer had a picture of, I believe, that was  
4   not deep enough. That plan is in this area.

5           So there was also a request to raise the levee  
6   along this reach, which was not issued in the permit. And  
7   that actually is still an issue that can be addressed by  
8   the Board. If the Board approves that, then we would  
9   issue a revised permit that would allow that. That has  
10  not been addressed yet.

11          The application actually included work in Reaches  
12  A, B, C, and D. So there were five reaches that the  
13  application actually addressed. Only Reach E was issued,  
14  because that was the only one for which design drawings  
15  were submitted. There were no design drawings substantial  
16  enough to determine permit conditions for A, B, C, and D.  
17  So those are still pending, essentially. Part of that is  
18  tied with whether they can raise the levee or not. But  
19  those permits, for the work on the levee and water side of  
20  the levee to the west, have not been permitted at this  
21  time.

22          Variances. We issued a variance in January of  
23  this year, just a time extension for work. We issued a  
24  variance to allow them to add two seepage monitoring wells  
25  in this area, that were requested by the Corps of

1 Engineers. And we issued a variance at the end of January  
2 for -- to complete the work.

3 In January, February, the reason there's so many  
4 variances a lot of times, they only go for a couple weeks  
5 at a time. They are not for a long period of time,  
6 because it's prime time for a lot of flows.

7 Because of what happened last month, and everybody  
8 saying what work was going to be done and what work wasn't  
9 being done, in a discussion with staff, when a permit  
10 comes in, or an application comes in, we open an  
11 application file, there's a description that goes on the  
12 outside of the file. And that's based on what they are  
13 asking for. And in this case they asked for everything  
14 from A to E. And so the description basically covered  
15 Highway 70, on eastward. But the work that was approved  
16 was actually from the Union Pacific Railroad, here, to the  
17 east, because we had never received the design drawings  
18 for this area to the west.

19 And so we corrected the description for the work.  
20 That was 6800 foot of the levee here, that was done, and  
21 the seepage berm. But the description of -- the location  
22 of it was not addressed. And so it should have been  
23 changed to -- from Highway 70 to Union Pacific Railroad.  
24 That was a staff error. We corrected that and issued a  
25 revised permit, that there was no error in what was

1 approved. No area to the east or west has been approved.

2 --o0o--

3 CHIEF ENGINEER BRADLEY: Next permit is 18090.

4 This is along the Bair River. It had to do with the pump  
5 station. There were some issues there. When they set  
6 back the pump station, they ran some pipes through. There  
7 were some pipe relocations. They had to put in -- right  
8 here is the outlet for the pump station. You can see  
9 where there's a little channel that drains into river.  
10 They placed some rock, riprap at the upper end of this so  
11 that when the outfall from the pump station hits it, it  
12 doesn't erode that area adjacent to the levee.

13 And they were to put a concrete cap across the  
14 pipes that they installed, in order to limit the elevation  
15 raise in this area.

16 Now, on that, it looks like they put some dirt in.  
17 We've asked DWR to go out and make an inspection of that.  
18 It looks like it's been filled with about 4 foot of dirt  
19 rather than 8 inches of concrete. So it's much higher  
20 than what it was expected to be. But we'll have DWR see  
21 if they have complied with that.

22 Also, as part of the pump station relocation, when  
23 they moved everything and put the pipes in, the pipes that  
24 were in there were 36-inch pipes. They replaced those  
25 with 42, that were not part of the permit. So that was

1 kind of authorized after the fact, as part of the permit.  
2 So minor hiccups in this, that could have been coordinated  
3 a little bit better. But not substantial overall.

4 SECRETARY DOHERTY: Did they have to replace those  
5 pipes? What is going to be affected with the larger  
6 aperture?

7 CHIEF ENGINEER BRADLEY: They were actually listed  
8 as a temporary, two-year, increase, or they are going to  
9 come out with -- I don't know yet. We'll see.

10 But I think we can live with it. That was one  
11 reason that the concrete cap went in. That's the limit --  
12 you need 3 feet of fill, over these pipes. And so you  
13 can -- you can put fill dirt over them, or you can put  
14 concrete cap over them, like you would a bridge and then  
15 you can ride a heavy truck over it.

16 We were out on the levee there about six weeks  
17 ago, and it is kind of a grade up and over that area. I'm  
18 not a heavy equipment operator, but it's probably not the  
19 best situation. So we'll have DWR check it.

20 I don't know if whether there's a concrete cap  
21 there or not. If there is not, we will seek compliance  
22 with the permit.

23 --o0o--

24 CHIEF ENGINEER BRADLEY: The next permit is 18123.  
25 This is the last permit we've actually issued. There's a

1 seepage berm along the Bair River. This is along both  
2 sides of Highway 70, about 800 linear feet of it. It  
3 was -- the permit was issued in November of this year.  
4 This work was started before they had the approved permit.  
5 And you can see that it was issued in November, so that's  
6 after the start of the flood season.

7           We had a meeting. I was a little perturbed, and  
8 made it very well known. And they have agreed to be  
9 very -- more careful and work with us, in the past [sic].

10           On -- again on a large project, a hiccup, they are  
11 moving just as fast as they can. So we do appreciate it  
12 when they do contact us, if they need to move fast. I  
13 don't think we -- once the Board has issued permits, even  
14 if staff of the Reclamation Board's in denial, I believe  
15 we've gone over those permits generally very quickly.

16           This was not something that probably we would have  
17 been too concerned about, but they did need an approved  
18 permit before they did the work. They had the  
19 application. It had been essentially done. It just  
20 hadn't been issued yet, before they started work. They  
21 were probably 90 percent done by the time somebody  
22 notified us, and we called them.

23           There are a couple of pending permits. We have  
24 Application 18170 that was filed in September of 2006.  
25 That is for the Feather River work. There are two permits

1 on that. And it's for the construction of seepage berms  
2 in Reaches 1 and 3. And those are -- I didn't prepare a  
3 slide for that. I was working on this, still, last night.

4 But those are north and south of the proposed  
5 setback levee, which is Reach 2. And that's not part of  
6 this permit. This is just a slurry wall, Sites 1 and 3.  
7 Actually, it goes from levee mile 13.3 to 17, and from  
8 levee mile 23.6 to 26.

9 And there's some reshape of the crown at -- up  
10 near the Yuba River, I believe. And I may be going in the  
11 wrong direction. I think that's where it is. I'm not  
12 sure.

13 And then finally -- so the permit on that is  
14 pending. Not everything is ready to go on --

15 PRESIDENT CARTER: The number on that again was?

16 CHIEF ENGINEER BRADLEY: What's that?

17 PRESIDENT CARTER: The permit number?

18 CHIEF ENGINEER BRADLEY: Permit is 18170. That's  
19 the Feather River slurry walls that will be coming to the  
20 Board. And that is pending.

21 Finally, there is the enforcement action that I  
22 will be speaking about on Agenda Item 10. And so that's a  
23 pending issue.

24 MEMBER RIE: Have they submitted an application  
25 yet?



1 CHIEF ENGINEER BRADLEY: Excuse me?

2 MEMBER RIE: Have they submitted an application?

3 CHIEF ENGINEER BRADLEY: They submitted an  
4 application. We did not accept it. We sent a letter not  
5 accepting the application. We held onto the application,  
6 but we are not accepting it formally.

7 And the reason for that is, is that applications  
8 apply to work prior to being done. After it's being done,  
9 it is an enforcement issue. And I will discuss that  
10 further under the detention basin.

11 MEMBER RIE: Okay.

12 --o0o--

13 CHIEF ENGINEER BRADLEY: There, again, we have  
14 eight permits issued, one pending at the moment. And so  
15 with that, are there any questions? That's the end of my  
16 presentation on permits.

17 PRESIDENT CARTER: Go ahead.

18 MEMBER BURROUGHS: Thank you. Steve, was there an  
19 overall schematic plan for all of these different permits,  
20 looking at the whole project, or were they presented piece  
21 by piece?

22 CHIEF ENGINEER BRADLEY: They were done piece by  
23 piece. Partly, the previous Board and my own fault for  
24 the way we agreed to accept this. There was also a couple  
25 of environmental documents that we handled this as various

1 pieces -- the third environmental document for the Feather  
2 River work.

3 And in hindsight, I would not do a project like  
4 this. I think it ought to come as a whole and that it  
5 ought to be looked at as an entire flood control project.  
6 But it came to us piece by piece.

7 It's been a very difficult set of permits for  
8 staff to follow and deal with. There's lots of pieces to  
9 it. And there's lots of overlapping parts to it. So you  
10 know, it's not the applicant's fault, in my opinion, that  
11 this happened. It is primarily my fault for not pointing  
12 this out to staff. And I didn't realize the scope of the  
13 project when it first came forward. It is very much a  
14 project. And I don't think they should be dealt with that  
15 way.

16 MEMBER BURROUGHS: I have another question with  
17 regard to the permits. I know that when an application is  
18 submitted and then it's approved, once the approval date,  
19 you have one year to start the project. Is there a date  
20 also of when a project needs to be completed?

21 CHIEF ENGINEER BRADLEY: Not typically. I think  
22 that if there was something that was not done, and it was  
23 just sitting around, hopefully the inspectors would notify  
24 us and we could address it.

25 Usually when something -- I mean, it's my -- you

1 know, on a big flood control project like this, they are  
2 not trying -- they are trying not to -- trying to complete  
3 it. They are not working to not complete this. So I  
4 think if it's not being completed, it's for some other  
5 reason. You know, it may be environmental or it may be  
6 many other things.

7 MEMBER BURROUGHS: Thank you. And I have another  
8 question. You said there are three applications in, that  
9 are pending approval; is that correct?

10 CHIEF ENGINEER BRADLEY: No. There is one that's  
11 pending approval, and there's an action before the Board  
12 that may require a permit action.

13 MEMBER BURROUGHS: Okay. Do you perceive, for  
14 this project, has there been discussion that there will be  
15 other permits that will be coming before the Board in  
16 terms of this overall project?

17 CHIEF ENGINEER BRADLEY: Yes, there will also be  
18 the setback levee along the Feather River.

19 MEMBER BURROUGHS: So one?

20 CHIEF ENGINEER BRADLEY: The applicants could  
21 answer that better than I could. But to my knowledge, I  
22 think that's going to be most of the flood protection.  
23 We're pretty well done on the interceptor canal; pretty  
24 well done on the Bair River.

25 The Yuba River work, there's some work to be done

1    there on Reaches A, B, C, and D, that is awaiting design  
2    drawings and some decisions by the Board.

3               And then there's the Feather River work. And I  
4    think that that's Phases 1, 2, 3, and 4, as they, more or  
5    less, laid them out at various times to the Board.

6               MEMBER BURROUGHS: Continuing on with the  
7    questions that I've just asked Steve then, could I follow  
8    up with the applicant about Steve's comment, that the  
9    information wasn't all turned in at the time of the  
10   application, so there was some permits that are -- not  
11   variances, but parts of it that were not approved.

12              Are those --

13              PRESIDENT CARTER: Let's just finish up. Are  
14   there any other questions of Steve? And then we'll ask  
15   the applicant to come up.

16              VICE PRESIDENT HODGKINS: Steve, I understand the  
17   problems -- well, I'm not sure I understand all the  
18   problems that were presented to you, in terms of having  
19   seven permits and potentially nine or ten or eleven before  
20   we get this project completed.

21              But if we were doing a Corps project -- and I'm  
22   thinking of the slurry walls on the American River;  
23   okay? -- where, to some extent, the work is authorized by  
24   Congress. But before you actually complete it, what you  
25   do may be substantially different than what was described

1 at the time the work was authorized in general, and those  
2 kind of things.

3 And those occur because at the point you do the  
4 feasibility study, which reached authorization, you  
5 haven't done a detailed analysis unless you do the final  
6 design.

7 And so to some extent, the Corps does -- you can't  
8 avoid having to do design as you go, because you need so  
9 much information. It takes time to get it out of there in  
10 terms of soil and whatever.

11 I think you are not as concerned when the Corps  
12 does that as you are when it's being done by encroachment  
13 permits or funding, or you become responsible for making  
14 sure that, in a way, that never threatens the integrity of  
15 the system. Help us understand the difference from your  
16 viewpoint.

17 CHIEF ENGINEER BRADLEY: Well, one, it is a  
18 federal system and so they can kind of do with it what  
19 they want. The process is a little bit different.

20 You know, they are -- before they actually go to  
21 construction, they do have their final designs. And I  
22 think, when you issue a permit, that's what you are  
23 saying. You are going to construction. This is not  
24 conceptual work here. They are going to construction.

25 In order to issue that permit, we need the design

1 drawings. And you know, usually we get, you know, around  
2 the 90 percent. And then we can issue the permit and make  
3 sure that all the details are covered before we issue that  
4 permit.

5           Otherwise, you just have some sort of concept out  
6 there and we don't know what we are doing. If you  
7 remember, when we were talking about the Yuba River raise  
8 and they are talking about placing a notch along the river  
9 and allowing that -- not raising it 1500 feet or  
10 something, well, we had no design drawings on that. There  
11 was no way we could issue a permit or really even consider  
12 that at the time, conceptually, and maybe that's not what  
13 the Board really needs, or staff needs -- actual design  
14 before you actually go to that permit.

15           Now, on large projects like the lighthouse project  
16 that happened in West Sacramento, like River Island, you  
17 are talking about conceptual permits, because you are  
18 talking about millions of dollars in design work, without  
19 any clear idea that the Board is going to ever issue that  
20 permit again.

21           And so they want some indication, before they  
22 spend all that money, that what they are proceeding with,  
23 before they get to all the details, is okay. An issue for  
24 conceptual permit, that's not for construction. Then they  
25 come back to you for individual permits, for however it's

1   phased or for however they wanted to construct it.

2           And that's the way -- you know, if I had my way,  
3   that's the way this permit -- this project would have been  
4   done. We would have seen this all conceptually. Then  
5   conceptual granting of the permits. And then they'd have  
6   come with all these permits, and we would have one  
7   environmental document covered and so forth. This was  
8   kind of assessing the problems as they go, and developing  
9   fixes very similar to what the Corps did. Much more  
10   difficult under the permitting process than with the  
11   federal government involved.

12           VICE PRESIDENT HODGKINS: But fundamentally, we --  
13   because the federal government is a partner, we trust the  
14   Corps to do it right. Is that what you are saying?  
15   Because I know, the American River, they didn't get  
16   permits; did they?

17           CHIEF ENGINEER BRADLEY: No, they do not. We do  
18   not issue permits to the federal government to begin with,  
19   and with a Corps Rec Board project, we don't issue  
20   ourselves permits either. We do not issue permits for our  
21   projects.

22           VICE PRESIDENT HODGKINS: Okay. All right.

23           PRESIDENT CARTER: Any other questions about the  
24   summary of permits for Mr. Bradley?

25           Mr. Brunner, did you want to comment on the staff

1 report?

2 MR. BRUNNER: Well, there was one question that  
3 was raised a second ago, about why we didn't apply for the  
4 permit. I took that question to mean Permit No. 10895 on  
5 the Yuba, that Mr. Bradley was talking about on the  
6 project on the Feather River.

7 The -- a couple of things I want to mention and  
8 then I will ask Ric to go through the sequencing as to why  
9 we did not do that. But the first thing I would like to  
10 clarify is, the revision that came out, we did not ask for  
11 a revision. And I think it will tie back into our  
12 sequencing and what we plan to do for the project.

13 The -- and then the other item that I wanted to  
14 mention is -- as Ric comes up, is that the next topic on  
15 your agenda on the levee raising ties into that discussion  
16 about the sequencing that we have.

17 So when you hear the next topic on the agenda, it  
18 relates directly to why and what we did. So Ric, if you  
19 could go through the sequencing.

20 MR. REINHARDT: Ric Reinhardt, Three Rivers  
21 Program Manager.

22 Under the application that we submitted, it  
23 ultimately became permit No. 10895GM. We included an  
24 element to raise that levee, to have 3 foot of freeboard  
25 on the 200-year water surface elevation. And there was



1 some waterside slope flattening between Highway 70 and  
2 Union Pacific Railroad, that would have been accomplished  
3 as part of that.

4 Ultimately, staff issued that permit under the  
5 signature of the general manager and did not include  
6 raising it above the 57 profile. So we did not have a set  
7 of plans for the raising or for the slope flattening,  
8 based on the permit that was issued by staff. And that's  
9 why, ultimately, I believe, staff revised the permit to  
10 not include that reach.

11 Is that consistent with your understanding, Steve?

12 CHIEF ENGINEER BRADLEY: Actually, the 90 percent  
13 design submittal did show the levee raising for Reach E.  
14 We did not have the design drawings for A, B, C, and D.

15 So right here, the 90 percent does show the levee  
16 raising for E, but not for the others. Reach E was not an  
17 issue. We did not have the design -- the proper -- enough  
18 design details to go ahead and issue the permit.

19 PRESIDENT CARTER: Okay. Any other comments?

20 MR. BRUNNER: I wanted to make a comment on the  
21 overall status report itself. I thought Steve did a very  
22 good job of summarizing the permits that we have. The --  
23 there are some hiccups that we're addressing.

24 I mean, Steve talked about Pump Station 6. We're  
25 working with the staff to work through those issues.

1 The -- there is some comment about "completed."  
2 Apparently, there's some ambiguity, that "completed" --  
3 for us, I look at "completed" as when we actually complete  
4 the project, when we're done in the construction activity.

5 And I think, as we prepare the reports and submit  
6 them to you, we are open and share where we believe that  
7 we are, on the project.

8 If "completed" means to certify, that means a  
9 different definition. So the -- for us, we believe that  
10 we are finished with the work, at the time I say  
11 "completed" -- or if it's a report that we completed.

12 So if there needs to be a definition of  
13 "completed" that we're working towards, to work with, then  
14 I will be open to that, and modify the reports to reflect  
15 that.

16 Thank you.

17 MEMBER RIE: I have a question.

18 PRESIDENT CARTER: Go ahead.

19 MEMBER RIE: Mr. Bradley had a comment, that his  
20 preference would have been to see an overall concept for  
21 all of the improvements for Three Rivers. And I just  
22 wanted to hear your comments with regard to funding.

23 I know funding is a challenge and you're receiving  
24 several state grants, Proposition 13 money. I don't know  
25 if there's any federal money involved, but would it have

1    been feasible with regard to funding, to submit one  
2    application for everything?

3           MR. BRUNNER:  I will provide you my comment.  I'm  
4    going to ask a couple of my associates.  Ric Reinhardt and  
5    Scott also may have a comment on that, from the Three  
6    Rivers point of view.

7           I've been with the project a little less than a  
8    year, coming from a large -- a long time period, working  
9    with the federal government on major construction projects  
10   and environmental efforts.  My experience would say it  
11   would not be viable to do this project as one large effort  
12   up front, particularly in the timeframes that we're asking  
13   for.

14          You know, I was struck by the comment on your  
15   previous topic, two hours, the long one about can we move  
16   fast on eminent domain activities and that.  And we're the  
17   antithesis of that.  We are moving at breakneck speed to  
18   get flood control activities in place and trying to get  
19   them installed.

20          For us to stop -- and it would be nice to have  
21   stopped and done a large project, up front.  Lay  
22   everything out and have it in place.  And I think we tried  
23   to do that through our EIR documentation, for what we are  
24   looking at doing with those issues.

25          But with the timing that we have on our project, I

1 don't think it would be feasible. We're working to  
2 complete the setback for 2008, which is a very fast  
3 project in itself, too. Our work is on a fast pace to get  
4 done. So I don't think it would be feasible.

5 So Ric and Scott?

6 MR. REINHARDT: Ric Reinhardt, Three Rivers  
7 program manager.

8 The original application that Steve Bradley  
9 said was submitted April of 2004 was an attempt to do  
10 that, to define the project, as we knew it, at that time.  
11 And the project, as we knew it, at that time, was  
12 improvements to the Yuba River, the Bair River and the  
13 Western Pacific Interceptor Canal.

14 The lower Feather River Floodplain Mapping Study  
15 was the first study that initiated all of this process,  
16 originally said that the Feather River met FEMA  
17 certification requirements and that the Yuba River,  
18 upstream of the Union Pacific Railroad, met FEMA  
19 certification requirements.

20 We produced a feasibility study in October of -- I  
21 want to say, 2004. I'm not positive of that date. But  
22 that defined all the improvements at a programmatic level  
23 at that time. And then we did CEQA documents based on  
24 that.

25 But as Mr. Hodgkins has said, as an example, in

1 the American River, as you get into this, you find that  
2 the project scope expands. And as the Corps of Engineers  
3 looked at additional data on the Feather River and the  
4 Yuba River, upstream of the Union Pacific Railroad, in  
5 January of 2005, they issued a letter stating that they no  
6 longer stand behind that opinion, that those levees need  
7 certification requirements, and they were added into our  
8 program.

9 So regardless of how you require these large  
10 programs -- projects like this to be permitted, I think  
11 the reality would be, they are going to expand as you know  
12 more, as the state of engineering knowledge changes. It  
13 takes multiple years to implement.

14 We started, initially, in August of 2003, with our  
15 investigation efforts. And our goal now is to complete  
16 most of the construction in the 2008 and final degradation  
17 of the Feather River in 2009. I'm talking about six  
18 years. I don't think it's practical to accomplish all of  
19 that under one permit.

20 MEMBER RIE: Mr. Shapiro, do you want to add a  
21 quick comment?

22 MR. SHAPIRO: I appreciate the opportunity to say  
23 something, but I think Ric and Paul have summarized it. I  
24 don't think I could have said anything better.

25 MEMBER RIE: Okay. Thank you.

1           VICE PRESIDENT HODGKINS: Just for clarification  
2 purposes, who did the Feather River Floodplain Mapping  
3 Study?

4           MR. REINHARDT: The lower Feather River Floodplain  
5 Mapping Study was a report commissioned by the Department  
6 of Water Resources. And they funded the Army Corps of  
7 Engineers to do the analysis and prepare the report.

8           VICE PRESIDENT HODGKINS: And I knew that. And  
9 the only -- it wasn't clear when Ric stated, that that was  
10 a State-Corps effort.

11           And part of the purpose here of bringing that up  
12 is to help people understand that. I think the State and  
13 the Corps and everybody else is trying to move forward as  
14 rapid a pace as they can. But they are being very careful  
15 at the same time. And when you do that, you get in these  
16 situations where things take longer than you think they  
17 are going to take. And the scope of the projects expand.

18           And there -- it's difficult to avoid that. I  
19 think people are being very, very careful here, not to  
20 make pronouncement about good levees until they are  
21 absolutely certain that's the case. And that's why this  
22 process looks like it's being done on the fly. And I  
23 think we're making good progress.

24           So anyway -- on the soapbox again.

25           PRESIDENT CARTER: Thank you.

1           Let's give the public a chance to comment on this  
2 before we break for lunch.

3           So Mr. Foley, did you want to comment on the  
4 status of the permits, the summary of the permits?

5           MR. FOLEY: Tom Foley, Yuba City, director of a  
6 nonprofit based in Marysville -- Concerned Citizens for  
7 Responsible Growth.

8           I've been involved with this since '03. I have  
9 attended almost every Rec Board meeting that pertains to  
10 this. Everything done expeditiously in Yuba County has  
11 been done under duress, pressure from Rec Board. It is  
12 not the best efforts. It is the best efforts of the Rec  
13 Board to get things done. They are not doing this thing  
14 expeditiously except under, I guess you would call it,  
15 under duress, under pressure. And they have said that.

16           They said they felt like the Rec Board had a  
17 conundrum, but that's necessary to get done. But I would  
18 just like to make that clear. The Rec Board has got to  
19 get it done. And the Rec Board will continue the  
20 oversight and will be the lead agency that the public  
21 needs to depend upon, to get that done.

22           When the Rec Board lays off, they lay off. You  
23 have been prompted for the permit, the restrictions on the  
24 building permit. You were promised \$200 million for  
25 building impact fees and infrastructure fees. That has

1 disappeared fast.

2 That is a very, very important thing, that going  
3 forward, pretending that the money is there. You are  
4 misleading the public. The Rec Board has to establish  
5 that, very quickly, very soon, on how much money is going  
6 to be available to you, from the developers. And then  
7 from there, we can see.

8 Thank you.

9 PRESIDENT CARTER: Thank you. Dr. Smith?

10 MR. SMITH: I would like to hold mine for 10, if I  
11 may, please.

12 PRESIDENT CARTER: That's fine.

13 Mr. Archer?

14 MR. ARCHER: Thank you, Mr. President.

15 PRESIDENT CARTER: You are welcome.

16 MR. ARCHER: Back to Permit 17921GM, issued to  
17 TRLIA 9/7/04 was to construct the 50-foot deep slurry  
18 wall, 2,200 feet between Highway 70 and the Union Pacific  
19 Railroad.

20 In 2007, I discovered two letters to the Army  
21 Corps of Engineers and so forth, that that did not go  
22 2,200 feet; it went approximately 1,100 feet. But in  
23 everything, including today here, Mr. Bradley said that  
24 levee was completed. It was completed to a point. It  
25 come down and it stopped. And then they put a slurry -- a



1 sand berm in there, which I don't want to get into that.

2 But they did not continue with the slurry wall  
3 because there's boulders in there. So we have to put that  
4 to rest. The slurry wall only goes partway. That's true.

5 Colonel Light, as I made the letter available to  
6 you people, said, it only goes there because it's near  
7 impossible to put a slurry wall through boulders.

8 Now, back to the permits, Mr. President, Engineer  
9 Bradley states that 18095GM only covers the slurry wall  
10 from the Union Pacific Railroad to Simpson Lane.

11 When I requested the permit under the Freedom of  
12 Information Act, back in January or whenever, it was sent  
13 to me and stated that the permit issued to Three Rivers  
14 Levee Improvement Authority, at their address, dated  
15 August 24th, 2006, had an accompanying letter from the  
16 Corps of Engineers, who do have a say in these permits,  
17 apparently, because it says here that we have read that  
18 permit and we agree with it. And we have no problems, if  
19 you go ahead, make it as slow as the work they're supposed  
20 to do. I'm cutting it short, there. But that's what the  
21 Corps of Engineers that came to me was.

22 And then it gives a description of all those  
23 things to do, which you say there was no permit for it. A  
24 permit was issued because when I informed the Yuba County  
25 Board of Supervisors of the failure of TRLIA to upgrade

1 the levee from Highway 70, east, to the Union Pacific  
2 Railroad, Ric Reinhardt stated, "The Corps of Engineers  
3 said, we do not have to construct that."

4 Okay. I didn't question that. I thought this was  
5 a Corps project, but I'm learning more as I go along.

6 When I informed the Rec Board -- you, the Rec  
7 Board, a member asked -- I informed the Rec Board that  
8 very same thing, this Board. A member asked TRLIA, in  
9 fact, it was you Mr. President, Executive Paul Brunner why  
10 they had failed to upgrade the levee.

11 See, now up until this point, that permit is good.  
12 And -- because everybody decided it was. Why they had  
13 failed to upgrade the levee, and he stated, "We did not  
14 get to raise the Linda levee, so we did not want to call  
15 the contractor in for just part of a job."

16 That levee, that Linda levee, under Kleinfelder  
17 said, in 2004, it needs the water side fixed to stop  
18 erosion. It needs numerous things. It needs to look  
19 inside the levee. It needs to do this. That was to  
20 protect the people down there.

21 But what I'm finding here is everybody is ignoring  
22 that part of the levee. Someone from the Board,  
23 yesterday, asked me, says, "Why are they ignoring that  
24 levee?"

25 It's a good question. They come and they do -- to

1 a certain part, because it's a good, safe, levee right  
2 there. Then they jump over it and go to another part.  
3 It's a good safe levee that hasn't had water on it for a  
4 hundred years.

5 So I'm going back to this. So since you did not  
6 do the raise, the levee, you did not do the upgrade. Now,  
7 that says a lot for how much they care about people, below  
8 that levee. Think about that. They didn't get to do the  
9 upgrades, so they didn't do the things that the levee  
10 needs to protect me.

11 Okay. Reinhardt and Brunner knew the permit was  
12 valid, as did those who said it to me. The validity of  
13 Permit 18095GM was not questioned at the January meeting  
14 here. I brought it up. And it was not until the February  
15 meeting, when Chief Engineer Bradley, President Carter,  
16 and Vice President Hodgkins and Board Member Rie, in open  
17 meeting -- although that section of the minutes is not  
18 printed, stated, that permit was not done and shut me  
19 down, right here.

20 But that very same day, when I informed the Yuba  
21 County Board of Supervisors that they had not fixed that,  
22 that sand berm, Ric Reinhardt, that very day, called  
23 Engineer Bradley and requested a variance permit to  
24 construct the sand berm, belatedly. They did it.  
25 Everybody did it.

1           But as I showed you this morning, they only laid  
2   some sand down, which will do nothing. Some of you are  
3   engineers. If you would have put that down, they would  
4   fire you on the spot.

5           You can't just lay sand in front of a levee and  
6   hold that it will reduce seepage. You have to connect it  
7   to the levee.

8           I'm an engineer, not a PE. But I'm engineering a  
9   program of trying to save Linda from getting flooded.

10          Mr. President, what has happened here is TRLIA  
11   thought they could get by with constructing only one half  
12   of the project to save money, because they had no money,  
13   or whatever reason. But they got caught. They didn't  
14   expect Rex Archer to step up and look and say, "But look,  
15   the emperor has no clothes on. That wasn't fixed. That  
16   wasn't fixed." You see?

17          The question now, Mr. President, is, will you take  
18   California into the Paterno situation again, or will you  
19   remove the permits from TRLIA which, in effect, removes  
20   TRLIA?

21          The 1997 flood damages were settled in rapid time  
22   because, as President of 784, I documented facts of the  
23   State constructing a mitigation pond too near to our  
24   levee, and using the underground river to supply the pond,  
25   which that winter -- after I resigned, because nobody

1 would listen to me, like I'm running into now -- blew out  
2 the side of that levee, killed three people, including my  
3 manager's wife. Much as I and others have documented the  
4 attempt by other agencies to cover up TRLIA's bad moves.  
5 And I hate to say it, but I believe some members of this  
6 Board are doing that right now.

7 I like every one of you. I wanted to help you. I  
8 have utmost respect for some of you. But some others, I  
9 do not.

10 Thank you, Mr. President.

11 PRESIDENT CARTER: Thank you.

12 VICE PRESIDENT HODGKINS: Since -- Mr. Archer?

13 MR. ARCHER: Yes, I will come back.

14 VICE PRESIDENT HODGKINS: Thank you.

15 MR. ARCHER: Yes, sir.

16 VICE PRESIDENT HODGKINS: Since I'm one of the  
17 engineers up here and besides Jay, may be the only  
18 registered civil, I want to specifically address your  
19 perceptions on the --

20 SECRETARY DOHERTY: She's an engineer.

21 VICE PRESIDENT HODGKINS: Oh, I'm sorry. Teri.

22 But Teri is transportation, which is a little  
23 different.

24 (Laughter.)

25 VICE PRESIDENT HODGKINS: You do everything when

1 you work for municipal.

2 PRESIDENT CARTER: But she's a great engineer.

3 VICE PRESIDENT HODGKINS: Here's my engineering  
4 opinion. Okay? The whole issue of underseepage was one  
5 that had kind of been overlooked until issues started  
6 developing off of levees in Natomas, in, I don't know,  
7 1998.

8 And those issues caused the Corps, the State, and  
9 SAFCA to get very focused on understanding underseepage.  
10 As a result of that -- I will be happy to share this  
11 document with you.

12 The Sacramento district brought in an expert panel  
13 from other parts of the Corps and one of the individuals  
14 who I thought was very, very knowledgeable. Used to be a  
15 Corps employee; is now teaching at one of the engineering  
16 colleges. And in effect, developed a policy on addressing  
17 underseepage.

18 The policy says the primary concern is something  
19 called the exit gradient, which is how much force, in  
20 effect, the water is exerting on the upper layer of soil  
21 as it seeps under the levee. That's not exactly right,  
22 but that's a good sort of understanding.

23 There are, in the Corps' guidance document, three  
24 methods that are listed for addressing under seepage: One  
25 of them is a slurry wall; one of them is seepage wells;

1 and one of them is berms. Okay?

2 The sand berm is the method that's been applied  
3 here. In my opinion, having watched slurry walls being  
4 constructed and understanding the potential problems with  
5 getting a seepage well to perform in the long range, the  
6 way it's supposed to, the best solution is the seepage  
7 berm. Okay?

8 It is nothing more than putting down weight in a  
9 layer of soil, on top of the ground, on the land side, so  
10 that the force of the water, coming up through that  
11 ground, does not carry with it material from under the  
12 soil. Okay?

13 Now, Steve said, we'll see if the slurry walls  
14 work. And I agree with that a hundred percent. We're not  
15 a hundred -- some of us are not a hundred percent sure  
16 that that will work.

17 But all of us -- I won't say all of us, because  
18 you never can get all the engineers to agree on anything.  
19 But those of us who have dug into this thinks that the  
20 best approach, where you have room, is to put more weight  
21 that is designed to control the movement of soil on the  
22 land side of the levee. That's what's done here. Okay?

23 So from my standpoint, I think, as an engineer,  
24 that the approach that has been taken is consistent with  
25 the Corps' guidelines, which were very carefully developed

1 when they began to understand how serious the issue was in  
2 California. And from an intuitive standpoint is the way I  
3 think the problem should be solved where you have the room  
4 to do it.

5 Slurry walls come in. We got houses, and we can't  
6 put in a sand berm.

7 Now, I don't want to argue with you about it.

8 MR. ARCHER: It's a slurry wall or sand berm we're  
9 speaking of here?

10 VICE PRESIDENT HODGKINS: We're speaking of both.  
11 They both are --

12 MR. ARCHER: I have no problem with slurry walls.  
13 They just don't go far enough in this case. Sand berm is  
14 what I thought you were talking about.

15 VICE PRESIDENT HODGKINS: And I'm saying, I think  
16 the sand berm is the best solution.

17 MR. ARCHER: There's Site 1 and Site 2, Site 2  
18 being that large one, 300 feet, this way, and then 90 feet  
19 a little further, down by the detention pond. That sand  
20 berm, I am not contesting, not that one.

21 Now, we move on back to the Union Pacific  
22 Railroad, at Site 1 -- these aren't my numbers, but they  
23 were passed around this Board earlier. Site 1 is the one  
24 that they claim is completed, that still needs ten feet of  
25 berm to go up, like the desk in front of you. It comes



1 along here with sand. Then it needs to connect to that  
2 levee. I don't care what your Corps thinks. They have to  
3 connect to that levee. They become part of that levee.  
4 Now, that one does not do it, sir. It stops -- I showed  
5 you.

6 VICE PRESIDENT HODGKINS: Well, you --

7 MR. ARCHER: So if you are telling me that that's  
8 a perfect one --

9 PRESIDENT CARTER: I think we ought to have staff  
10 and the inspectors will inspect this and determine if it's  
11 designed or built as designed and it meet the standards.

12 We aren't prepared to argue the facts here. Your  
13 pictures aren't enough to demonstrate the facts one way or  
14 the other. We've had testimony from staff that  
15 contradicts yours. We need to get some more  
16 investigation. We will do that.

17 MR. ARCHER: Sir, I was going to ask you to move  
18 that to the Marysville thing, if you will. Move that  
19 issue to the 22nd, in Marysville. And we will take it up  
20 there. You will then have plenty -- you got six weeks.

21 PRESIDENT CARTER: Unfortunately, because Open  
22 Meeting laws, we cannot amend the agenda for the 22nd,  
23 because it's outside of our notice, period.

24 So the agenda for the 22nd has been published  
25 according to law and cannot be altered at this point.

1           MR. ARCHER: All right. Then when it comes to the  
2 levee --

3           PRESIDENT CARTER: Mr. Archer, do you have  
4 something new?

5           MR. ARCHER: Yes, I've got something new.

6           PRESIDENT CARTER: Please, you've got three  
7 minutes.

8           MR. ARCHER: Wasn't that new, sir? The fact that  
9 they didn't do this? I mean, I know you are against me.

10          PRESIDENT CARTER: Please move on, Mr. Archer.  
11 Everybody's getting hungry. We want to move on.

12          MR. ARCHER: All right. One more.

13          When that water comes up and moves the gradiance,  
14 it's usually the toe of the levee. Now, granted, it does  
15 it way out of the way, but we're talking there about the  
16 toe of the levee. That --

17          PRESIDENT CARTER: I said that we are going to  
18 inspect that. We will determine if it's compliant.

19          MR. ARCHER: You know, I wish you were somebody  
20 that lived there, where I could show you these things,  
21 sir.

22          MR. SMITH: Mr. Chairman, I think in view of what  
23 Mr. Hodgkins has said, I'd also like to give my five  
24 minutes, if I may. I also have some things to do this  
25 afternoon. It's very germane. It fits right to what we

1 are doing now.

2 PRESIDENT CARTER: Please go ahead.

3 MR. SMITH: Thank you. I appreciate that.

4 Last night we witnessed a major catastrophe here,  
5 not very far from here. And I took some pictures off the  
6 TV that support what I'm talking about. If you would take  
7 those up and give it to them, you can look at them. We're  
8 talking about some very serious things here, and I'm not  
9 very much interested in these engineering type of things.

10 When it comes to the Army Corps of Engineers, what  
11 did we find out happened down in Katrina, we find out that  
12 they did not have interlocking panels in there, and that's  
13 what a large part of the flood was all about. There's  
14 absolutely parallel to the kind of slurry walls and these  
15 interlocking panels. That berm is second best. I don't  
16 care how you hack it otherwise. It is second best.

17 Now, I'm Dale Smith. Dr. Dale Smith is a  
18 long-time media man, and I know how to write my script and  
19 I got it here and I'm going to get it to you quickly.

20 When the staff report came out on this issue, we  
21 sent an e-mail on the 9th, to Rec Board, requesting more  
22 drastic action, rather than the tiny risks that are  
23 suggested in this thing.

24 Now, months ago, Mr. Foley, Mr. Archer, and  
25 myself, we pointed out these violations again and again.

1 We've recorded them. We have put them in documents. We  
2 have sent them to you. We've sent along pictures to show  
3 you.

4 Now, your staff report says, "Under Section 22,  
5 the Board may require, but is not limited to the following  
6 actions to address this" -- filling in an application to  
7 the permit.

8 We have just heard a dissertation here of all  
9 kinds of filling in applications after the fact. How long  
10 will you let that go on? How can I make a mistake and do  
11 something, and then turn around and ask you? Every  
12 lawbreaker in the world would love to have this kind of a  
13 slap on the wrist.

14 Now, we've objected, strenuously, to what the  
15 staff is doing in this case. And it's something that's  
16 just troubling to me because what it amounts to is that  
17 you may not be taking care of the best interests of the  
18 people that are behind that levee. And Mr. Archer happens  
19 to be one of them.

20 All lawbreakers would like such a kind slap on the  
21 wrist, the same after this particular situation. You  
22 might have escaped this time, but what provisions are  
23 there? Is the Reclamation Board going to continue to  
24 allow you to gamble with people's lives? I hope not.

25 You know, it's just a serious kind of a situation,

1 we have to think about. It's our opinion, there should be  
2 some punitive action taken against TRLIA. And your own  
3 staff statement that you are not limited to the following  
4 actions to address unauthorized encroachments.

5 Candidly, attending meetings of the Rec Board,  
6 when these matters of TRLIA come before you are  
7 exceedingly frustrating to me, because it seems to me that  
8 you are coddling a spoiled brat, got caught with a hand in  
9 the cookie jar, and all they get is a little bit of  
10 scolding for the malfeasance, much less a disciplinary  
11 punch.

12 Now, when it comes to that particular place, that  
13 Mr. Hodgkins was mentioning a little bit ago, I don't care  
14 how strong your chain is. It's only as strong as the  
15 weakest link.

16 I want to ask you to err on the side of safety. I  
17 don't think that particular area is what it ought to be.  
18 Please, don't continue to just slap the wrists of TRLIA.  
19 You know, pardon the expression, but it just doesn't hack  
20 it.

21 I would just like to wind up with this. Laws and  
22 rules and processes and permits are for keeping control of  
23 the flooding in the Central Valley. And that's your  
24 mandate under California law. Start with this case. Send  
25 a strong signal that any and all malfeasance will not be

1 tolerated in matters of flood control.

2           Teddy Roosevelt probably had it the best when he  
3 said, "No man is above the law. No man is below it. Nor  
4 do we ask any man's permission when we require them to  
5 obey it."

6           How long will you let this organization continue  
7 to disobey the permits that you issue? How long? When  
8 will you take action?

9           I hope you take it soon. You have got through  
10 this year, but that catastrophe out there, that happened,  
11 can happen again quickly, with one single earthquake. And  
12 you will have what you saw on the television repeated  
13 thousands of times over, all over this area.

14           Please, don't gamble with the lives of the people  
15 that are in flood areas.

16           Thank you.

17           MEMBER RIE: Mr. Smith, would you like this back?

18           MR. SMITH: No, I don't want them. I have them on  
19 my computer. That's good enough.

20           PRESIDENT CARTER: Okay. One comment.

21           We -- there's been a lot of discussion with regard  
22 to the slurry wall and the 1986 break repair and the  
23 boulders and whatnot, along the Yuba River.

24           Mr. Hodgkins expressed his opinion that the sand  
25 berm or seepage berm was adequate. It is the opinion of

1 the engineering community and the experts, that the Rec  
2 Board has to rely on, that that is an appropriate repair  
3 for that site. And that is what we have to rely on. And  
4 that is what we will rely on in the absence of other  
5 technical evidence by those experts.

6 So from this point on, we are not going to discuss  
7 the validity or the integrity of that unless we have new  
8 evidence. So we're going to move on from here. All  
9 right?

10 I'm sorry if people don't believe the experts, but  
11 those are the people that we have to rely on. And that's  
12 what we're going to do, and we are going to move on.

13 So that is a done deal, in the absence of new  
14 information. Okay?

15 And that new information has to be technical  
16 information from the experts. All right? So Mr. Foley,  
17 did you want to make a comment?

18 MR. FOLEY: Yes, before you get away from the  
19 subject.

20 PRESIDENT CARTER: Please come up to the podium.

21 MR. FOLEY: Thank you very much. I will be just a  
22 second.

23 I brought up, at the December meeting, and I think  
24 at the January meeting, just recently again, there is a  
25 team from the University of California at Berkeley that

1 went down, got a National Science Foundation grant, and  
2 went down, out of their pocket.

3 They are the preeminent experts on Corps  
4 procedures. It's called the Independent Levee  
5 Investigation Team. They published a report that -- and  
6 I've asked you -- I think, this will be the third time  
7 that you bring them in. There is no one more qualified to  
8 give you an opinion on that Paterno area.

9 They exposed -- they are very well known. They  
10 expose the flaws, Army Corps flaws of New Orleans. They  
11 are now considered experts on geotechnical issues.

12 PRESIDENT CARTER: Could you state their name  
13 again, please.

14 MR. FOLEY: Called Independent Levee Investigation  
15 Team. And the group that put it together is called Center  
16 for Catastrophic Risk Management. Professors involved are  
17 Dr. Robert Bea and Raymond Seed, who works for DWR. These  
18 people are -- I myself would be quite happy to accept  
19 their finding.

20 PRESIDENT CARTER: Thank you. Okay. We are going  
21 to take a lunch recess at this time. Then we will  
22 continue with the remaining item on Item 8.

23 So we will reconvene here in one hour.

24 (Thereupon a break was taken in  
25 proceedings.)



1           PRESIDENT CARTER: Good afternoon, ladies and  
2 gentleman. Let's go ahead and continue with our meeting.

3           I trust you all had a nice lunch and are able to  
4 have it fully digested for our afternoon session.

5           We, as you recall are on Item 8. We're on the  
6 third bullet of Item 8, which is a Status Update of Yuba  
7 River Levee Raise, Hydraulic Impact Analysis.

8           With that, we'll turn it over to Mr. Bradley.

9           CHIEF ENGINEER BRADLEY: Yes, those records --  
10 Steve Bradley, chief engineer for the Reclamation Board.

11           I don't have as much to report as I would like. I  
12 drafted a letter to Three Rivers Levee Improvement  
13 Authority, telling them what I wanted in a hydraulic  
14 analysis and how to look at the impacts. That was drafted  
15 in late February. I sent it to Scott for review. And I  
16 think, on February 28th, Scott sent it back a couple of  
17 days later. I started drafting the comments that he had  
18 made. And at that point, I got drafted into the NRDC  
19 lawsuit brief, as support to the Attorney General.

20           So I haven't finished that. It probably turns out  
21 that's a good thing, because I was trying to get the  
22 letter out to Three Rivers before this Board meeting. But  
23 on second thought, I would really like to discuss the  
24 issues with the Corps before I send that letter.

25           So I will probably do that. My schedule over the

1 next couple weeks is uncertain. I have jury duty next  
2 week. So I may be in the office or may not. I have to  
3 check every night. The following week I'm in the office.  
4 The week after that, I am on vacation for a week. So kind  
5 of spotty for the next couple or three weeks. But  
6 hopefully the letter is actually fairly close to being  
7 final.

8 In my opinion, I would like to talk the issues  
9 over with the Corps, their hydraulics people, and their  
10 O&M people.

11 Are there any questions?

12 PRESIDENT CARTER: Hopefully you can work with  
13 General Manager Punia and perhaps with Eric and keep that  
14 ball rolling.

15 CHIEF ENGINEER BRADLEY: It's actually a fairly  
16 complex issue. And has wide-reaching consequences. It's  
17 not something we really want to rush into. We do need to  
18 get it done. It's affecting a lot of work that's been  
19 proposed.

20 PRESIDENT CARTER: Okay. Any questions for  
21 Mr. Bradley?

22 Mr. Shapiro?

23 MR. SHAPIRO: Thank you. Scott Shapiro, special  
24 counsel for Three Rivers.

25 We just wanted to note that to the extent there's

1 a list of questions, we would sure love to meet with staff  
2 personally and have a chance to go through them before we  
3 have to go through another letter process.

4 We think we know a lot about this particular area,  
5 and we think we could probably add something to the  
6 discussion. So our request would be a chance to work with  
7 staff and not have to go through a letter process.

8 Also Three Rivers is curious, how, if at all, the  
9 draft David Ford report impacts or is connected to this  
10 issue. Are the various indices that are in the report  
11 going to be used on this, or are they separate issues?

12 Thank you.

13 CHIEF ENGINEER BRADLEY: Many of them are separate  
14 issues. A lot of what David Ford's report talked about  
15 was mitigation of impacts and the initial determination of  
16 impacts. But there wasn't a lot. There was some  
17 discussion of the baseline, which was really where I had  
18 questions at one time.

19 Mitigation is really the applicant's  
20 responsibility. As staff to the Board and the Board, the  
21 applicant proposed the project. They study it. They say,  
22 we have impacts or we don't. The Board and myself say we  
23 agree, you have impacts. Or we agree, you don't have  
24 impacts. And then if they have impacts, then they propose  
25 mitigation for those.

1           It's up to the applicant to propose the  
2 mitigation. The Board just determines whether they think  
3 that that is adequate or not adequate; not the Board's job  
4 to determine what the mitigation should be. They just  
5 have to determine whether what is proposed is adequate.  
6 So it's really the applicant's job to propose the  
7 mitigation. Then we decide or Board actually decides, in  
8 the end, whether it's adequate or not.

9           PRESIDENT CARTER: And I'm sure, you are willing  
10 to work with the applicant on an interim process.

11           CHIEF ENGINEER BRADLEY: Right. In the end, this  
12 is -- the engineering of it is what I'm asking to be  
13 provided for the engineering analysis.

14           PRESIDENT CARTER: Okay. Very good.

15           I think, from a Board perspective, in terms of the  
16 David Ford report, we're still trying to digest that and  
17 understand how we are going to apply that from a policy  
18 perspective, on modification to the project, to the  
19 system.

20           So we don't know the answer to that question yet,  
21 Mr. Shapiro.

22           VICE PRESIDENT HODGKINS: I have a question for  
23 Steve.

24           Steve, the day before the Board suggested the  
25 baseline is the design of the system?

1 CHIEF ENGINEER BRADLEY: The 1959 designs profiles  
2 you are talking about?

3 VICE PRESIDENT HODGKINS: That's correct.

4 CHIEF ENGINEER BRADLEY: I tend to agree with  
5 that. I believe that's what the State Legislature  
6 adopted, and that's what the Board is responsible for.

7 VICE PRESIDENT HODGKINS: Okay. But I thought I  
8 heard you, and I'm trying to understand, what's the nature  
9 of the information that you would like to get, that you  
10 haven't gotten yet, if -- and I heard you say "baseline."

11 So what is it about -- about the baseline that you  
12 are uncertain about? And if this is better for a  
13 conversation offline --

14 CHIEF ENGINEER BRADLEY: I don't think I'm  
15 prepared to discuss that now.

16 PRESIDENT CARTER: Any other questions for  
17 Mr. Bradley?

18 Thank you very much.

19 At this point we will move on to Item 9, the  
20 Consent Calendar. There's one item on the consent  
21 calendar, the access road easement for Gary Campbell,  
22 Sutter County. Consider approval of an easement to Gary  
23 Campbell for an access road across Reclamation Board  
24 fee-owned property located near the town of Sutter.

25 Everybody's had a chance to review their

1 materials?

2 SECRETARY DOHERTY: Is that a paved road? Is it a  
3 paved road?

4 MR. FONG: Jeff Fong, Department of Water  
5 Resources. Lady Bug, no, that's not a paved road.

6 SECRETARY DOHERTY: If he had access to it, is he  
7 going to muck it up in the wintertime?

8 MR. FONG: No, but we're requiring that he enter a  
9 proposed road maintenance agreement with us, and then he  
10 would pay for the proportion of his share, for the use of  
11 the road, and he has agreed to do so.

12 SECRETARY DOHERTY: Does he have a house there?

13 MR. FONG: He has a rental unit there, that's  
14 landlocked. And he also has his home and his orchard next  
15 door, across the road.

16 SECRETARY DOHERTY: I have no objections to it, as  
17 long as he has to help and enter into this maintenance  
18 agreement.

19 MR. FONG: He has agreed to do so.

20 PRESIDENT CARTER: So we have a motion to approve  
21 the easement.

22 SECRETARY DOHERTY: I will turn that into a  
23 motion. I would make a motion that we approve the  
24 easement to the Campbell property.

25 PRESIDENT CARTER: Is there a second?

1 MEMBER RIE: Second.

2 PRESIDENT CARTER: Okay. We have a second, a  
3 motion and a second. All those in favor, indicate by  
4 saying "aye."

5 (Ayes.)

6 PRESIDENT CARTER: And opposed?

7 Motion carries.

8 MR. FONG: Thank you.

9 PRESIDENT CARTER: All right. Now we move on to  
10 Item 10, Enforcements. The Unauthorized Detention Basin,  
11 Yuba River, Reclamation District 784, Yuba County.

12 Mr. Bradley?

13 CHIEF ENGINEER BRADLEY: I brought an information  
14 presentation to the Board last month, discussing  
15 construction of a detention basin adjacent to the project  
16 facilities. And the Board directed me to bring that back.  
17 It is an authorized construction of a detention basin.

18 It's within Reclamation District 784 along the  
19 Yuba River levee. That would be the south or left bank  
20 levee in Yuba County.

21 --o0o--

22 CHIEF ENGINEER BRADLEY: Just so that everyone --  
23 this is the Feather River here. This is the Yuba River  
24 floodway coming into the Feather, which comes down from  
25 the north. Town of Marysville here, town of Yuba city

1 over here.

2 This is the Linda area. And area we're talking  
3 about is what we talked about earlier today: the seepage  
4 berm, the 1986 Union Pacific Railroad, and the detention  
5 basin is in this location.

6 --o0o--

7 CHIEF ENGINEER BRADLEY: Primarily what we have is  
8 Yuba River floodway here. It's very wide in this area.  
9 We have a project levee that comes from the Feather River  
10 basically and not the Yuba River. Crosses the Union  
11 Pacific Railroad that comes through here.

12 We have the seepage berm that was constructed, as  
13 we talked earlier, under Permit 17921. Constructed this  
14 one. There's also a little piece, as you remember, that  
15 was constructed as part of that permit.

16 '86 failure, this is the wide portion. As you  
17 will remember, I believe, two months ago, that John Hess  
18 explained how this worked, that there are large cobbles in  
19 the break area, and that the seepage berm lengthened the  
20 path long enough that you didn't have the water coming  
21 through big cobbles and popping up, adjacent to the levee.  
22 Makes a seepage path that's longer. Also acts as a filter  
23 blanket. If it doesn't move any material, the fine sands  
24 kind of filter that out and eventually plugs up, limiting  
25 the seepage.



1           In this area, the seepage was about 300 feet wide  
2   through here, and 90 feet wide in this area.

3           The detention basin was constructed adjacent to  
4   it. The way it works, there's an inflow pipe here that  
5   comes in, fills up the detention basin. There's a pipe  
6   here that takes that around, comes out here, dumps out  
7   onto the vacant ground.

8           If it doesn't get high enough to go out the other  
9   pipe, it actually just seeps in here, into the dirt here  
10   or into the ground here. There is an overflow, if it gets  
11   really full. Instead of going, just piping around,  
12   there's actually a little overflow in this area, overflows  
13   and picks up the ditch here and goes out.

14                               --o0o--

15           CHIEF ENGINEER BRADLEY: When we issue permit  
16   17921, we had a couple of special conditions. Special  
17   Condition 13 said that the applicant would require --  
18   would provide us an easement for the project. And that  
19   was to be -- include the existing or to-be constructed  
20   levee and the seepage berm. And the easement must include  
21   the area within the floodway, the levee section, and the  
22   area 10 feet in width, adjacent to the landward levee toe,  
23   and the landward toe of the seepage berm.

24           So in 921, it identified that area as requiring a  
25   Board easement, and that the seepage berm was basically

1 part of the project, which was also addressed in Special  
2 Condition 38, which said the seepage berm is considered a  
3 flood control project feature and is subject to Title 23,  
4 California Code of Regulations.

5 So they had the information, though, that work  
6 within that area required a permit.

7 --o0o--

8 CHIEF ENGINEER BRADLEY: The need for a permit is  
9 actually defined in Section 6. And this is the first of  
10 three sections. Section A says, "Every proposal of plan  
11 of work" -- and it goes on to describe several of them --  
12 "wholly or in part, within any area for which there's an  
13 adopted plan of flood control, must be approved by the  
14 Board prior to commencement of work."

15 Well, there's arguably -- you can say that's not  
16 part of an adopted plan of flood control yet, even though  
17 we identified it in a permit. But that's actually also  
18 covered by Item C. Every proposal or plan of work  
19 described in subdivision A, but located outside the area  
20 for which there's an adopted plan of flood control must be  
21 submitted to the Board for approval prior to the  
22 commencement of work, if it is foreseeable that the plan  
23 of work be injurious or interfere with the successful  
24 execution, function, or operation of any facilities of an  
25 adopted plan of flood control or of a plan under study.

1           My contention is, if you are digging a hole next  
2   to a levy, that it's somewhat foreseeable, there may be a  
3   problem. And they have been working on this project long  
4   enough to know that they shouldn't touch basins, if  
5   nothing else. They should have asked us whether they  
6   needed a permit. This was not something difficult to  
7   address.

8           SECRETARY DOHERTY: You followed that Part C with  
9   another paragraph. It says, "...construction of the  
10  seepage berms had recently occurred may be an action that  
11  would be injurious to or interfere with the successful  
12  execution, functioning, or operation of an adopted plan of  
13  flood control."

14          What do you say to that?

15          CHIEF ENGINEER BRADLEY: Are you -- you are  
16  quoting from the staff report?

17          SECRETARY DOHERTY: Yes.

18          CHIEF ENGINEER BRADLEY: Yeah. What I'm saying  
19  is, when you are digging next to a levee, there's a  
20  potential that you could cause a problem. But that's the  
21  reason we are keeping things within ten feet of the levee.  
22  In this case, the levee had been amended with the seepage  
23  berm. And it's -- this area, they are doing construction  
24  within 10 feet of that seepage berm. Or the detention  
25  basin is actually within 25 feet. There is a section in

1 the regs where it says the detention basin closest --  
2 within 25 feet definitely need to be -- have a permit.  
3 Beyond that it's up to us.

4 In this area, I believe I described last month, we  
5 took a permit from Wal-Mart, which is just to the east  
6 here. And they were about 300 feet. Their detention  
7 basin was much deeper than this. It was six to 8 feet.  
8 But there's a good chance that these areas are hydraulic  
9 and they connect to the river because of sand berms.  
10 Hydraulic mining fill in this area is quite extensive.  
11 This whole area is built on hydraulic mining.

12 SECRETARY DOHERTY: Did they get any water in  
13 there -- Wal-Mart, this winter, at all?

14 CHIEF ENGINEER BRADLEY: You know, I don't know.  
15 We had Wal-Mart submit a geotechnical analysis for us, on  
16 that. And they concluded -- the geotechnical analysis  
17 concluded it was not hydraulically connected to the river.  
18 We did request them to get a permit so we could ask for  
19 the information.

20 MEMBER RIE: Have you had a chance to look at the  
21 geotechnical analysis for this detention basin?

22 CHIEF ENGINEER BRADLEY: No, but I will be  
23 covering that in a few minutes.

24 MEMBER RIE: Okay.

25 --o0o--

1 CHIEF ENGINEER BRADLEY: Just some photos. You  
2 can see, this is the detention basin down here. This is  
3 coming this way, in on out. You can see that there's work  
4 adjacent to the toe, here.

5 --o0o--

6 CHIEF ENGINEER BRADLEY: Another view. You are  
7 standing on the levee, looking down. The toe of the  
8 seepage berm's right here. There is excavation and a  
9 couple of channels.

10 And again, looking to the east, and you could see  
11 that the excavation is right adjacent to the toe.

12 --o0o--

13 CHIEF ENGINEER BRADLEY: Enforcement action. Why  
14 is this an enforcement action, not a permit action? Well,  
15 need for permit again, says, must be approved prior -- by  
16 the Board, prior to the commencement of work.

17 Once the work starts, it's really not a permit  
18 action. It's an enforcement. Under enforcement, the  
19 Board has several options. They have many options. They  
20 are unlimited, basically. But the actions that are listed  
21 in the Board's regulations, that are not limited to, the  
22 Board may order removal of the work; alteration of the  
23 work; they can require performance of additional work,  
24 implementation of special mitigation effects on the  
25 environment. That's if a project did affect the

1 environment, they could require that it be mitigated.  
2 They could require compliance with additional and  
3 reasonable conditions. This really refers to a permit  
4 that's already been issued, where we have an enforcement  
5 action, where they're not complying with the existing  
6 conditions of some sort. The Board can order the  
7 applicant to file a permit pursuant to this division.  
8 That is, you can order them to file a permit to bring this  
9 issue under permit. They can order the permit to be  
10 revoked, so that doesn't apply here. There is no permit  
11 here, at the moment, for this.

12 As was discussed earlier, the applicant -- I'm not  
13 sure what it's called -- the "enforsee." But Three Rivers  
14 Levee Improvement Authority did submit an application to  
15 us. We sent back a letter saying, we received it, and we  
16 do not accept it at this time, as it is a Board action.  
17 And it's up to the Board to decide whether an improvement  
18 would be taken or -- whether an application will be taken  
19 or some other action. Until the Board makes a decision,  
20 it -- we will not be accepting the application.

21 SECRETARY DOHERTY: Mr. Bradley?

22 CHIEF ENGINEER BRADLEY: Yes.

23 SECRETARY DOHERTY: On your last paragraph, you  
24 say the staff recommendation da, da, da. "For a permit  
25 pursuant to this division, it delegates to the general

1 managing authority to review and approve the permit  
2 application."

3 But does additional work need to be done, or do we  
4 need changes made to this detention basin?

5 CHIEF ENGINEER BRADLEY: I've kind of covered that  
6 in the staff recommendation, that I have before you, which  
7 wasn't in the staff report, I don't believe.

8 As detailed as it is, this was another one that I  
9 had about 95 percent done when I went to work on the NRDC  
10 brief.

11 Anyway, the staff recommendation, to address this  
12 enforcement issue, is that the staff requests the Board to  
13 order Three Rivers Levee Improvement Authority to file an  
14 application for a permit pursuant to the Board's  
15 regulations, and delegate authority to the general manager  
16 to approve the permit when completed.

17 Staff further requests the Board order that the  
18 permit include special conditions to address the  
19 following:

20 One, a requirement that the applicant provide the  
21 Board with a geotechnical assessment demonstrating that  
22 the detention pond does not pose a threat to the adopted  
23 plan of flood control;

24 And two, a requirement that the applicant record,  
25 on any title to the relevant property, a statement to the

1 effect, the project is subject to a Board permit, and the  
2 project may not be modified in any way without prior  
3 written consent of the Reclamation Board.

4 I believe that answers both Ms. Rie's question and  
5 Ms. Doherty's question.

6 Does that --

7 MEMBER RIE: Yeah. Thank you.

8 PRESIDENT CARTER: Anymore questions for Mr.  
9 Bradley?

10 Okay. We do have a couple members of the public  
11 that want to comment on this.

12 SECRETARY DOHERTY: Mr. President, before we have  
13 public comment, can I ask a question?

14 PRESIDENT CARTER: I'm sorry. I didn't mean to  
15 exclude you.

16 SECRETARY DOHERTY: That's okay.

17 I would like to ask TRLIA if they could answer  
18 why, in their opinion, they didn't think they needed a  
19 permit.

20 MR. SHAPIRO: Thank you, Ms. Burroughs.

21 Scott Shapiro, special counsel for Three Rivers.

22 I guess in answering that question, you force me  
23 to become a lawyer and make the argument. And I guess I  
24 want to do so cautiously, because I hope the message we've  
25 conveyed over the last few meetings is an extreme desire



1 to work cooperatively, as indicated by our submittal of  
2 the permit application since the last meeting.

3 We have taken a look at the regs, and we continue  
4 to question whether jurisdiction is really proper here.  
5 The detention basin itself is more than 25 feet off of the  
6 seepage berm. As we read the regs, the regs refer to the  
7 10-foot area. It actually refers to the 10-foot area off  
8 the levee toe. The regs are specific -- levee toe, not  
9 flood control feature.

10 While the special condition permit, that  
11 Mr. Bradley read, does specifically reference a  
12 requirement for an easement of 10 feet off, it doesn't  
13 connect that back to the obligation to apply for a permit.  
14 And again, we're 25 feet off.

15 The only issue that's within the 25 feet is the  
16 ditch, which, itself, is under 2 feet deep.

17 On top of that, and perhaps most importantly,  
18 because the niceties of it are kind of irrelevant. The  
19 ultimate question is public safety. We did the  
20 geotechnical analysis. We showed it to the Corps. We  
21 concluded there was no impact. And therefore, we came to  
22 the conclusion, it was not injurious to the project.

23 It seems to me that if we're going to say  
24 otherwise now, there's going to be a disagreement between  
25 the Reclamation Board and the Corps. And we don't think

1 it needs to go there.

2 I think that it's also important, as I'm in my  
3 lawyer mode for a minute, just to note that while there's  
4 some question in staff's mind, as to whether or not an  
5 application is appropriate, there is significant question,  
6 in my mind, as to whether this is a proper enforcement  
7 action under the regulations.

8 If you look at Section 22 that was cited in the  
9 seven actions the Board can take, that was sub B. Sub A  
10 says, "The hearing officer shall prepare the proposed  
11 decision within 30 days after the conclusion of the  
12 enforcement hearing. Then the board shall adopt the final  
13 decision at the next scheduled Board meeting and includes  
14 the following seven items."

15 So before you can pick one of your seven, you need  
16 to have a hearing with a proposed decision. Before you  
17 can have a hearing with a proposed decision, you need to  
18 actually provide certified mail notice to the applicant,  
19 which we didn't receive. There needs to be a 60-day  
20 process, thereby, for us to respond to it.

21 None of that procedure has been followed. And  
22 having said that, we applied. We're here, ready to work  
23 with the Board. Our desire would be that the Board would  
24 simply instruct staff, accept the application and process  
25 it. We would be absolutely happy to do that.

1           Lastly, it's a little hard to respond to specific  
2   conditions that staff has identified, because we haven't  
3   seen them. They weren't in the staff report that was  
4   provided to us.

5           And so the ones that you just read, Steve, we  
6   can't specifically respond to the issues. But I will note  
7   that it seems a little odd for us to submit a geotech  
8   analysis to get a permit, when the geotech analysis, that  
9   we've already prepared, shows we don't need a permit.

10          I trust that answers your questions.

11          MEMBER BURROUGHS: Thank you. Although you only  
12   provided it to the Corps. And if we're going to have a  
13   good working relationship, it would have been prudent to  
14   share it with us as well.

15          MR. SHAPIRO: You are absolutely right. And we've  
16   previously apologized for that oversight. That analysis  
17   has been provided. It was included as an attachment to --  
18   I believe it was included in an attachment to the previous  
19   information item. As I sit here -- was it? Yes, it was  
20   attached to previous information that's been submitted to  
21   staff. We will provide it again. We will have meetings.  
22   We're really willing to go over it.

23          Our view is, there's no enforcement action because  
24   a permit wasn't required. But if you would like one,  
25   we've already applied for it, and we're happy to accept

1 it.

2 PRESIDENT CARTER: Any questions?

3 MEMBER BURROUGHS: Does staff know if we've  
4 received a geotechnical report?

5 CHIEF ENGINEER BRADLEY: The Corps doesn't  
6 determine whether a permit is required or not. That is  
7 the job of the Reclamation Board. Three Rivers doesn't  
8 determine whether a permit is required or not. That  
9 again, is the job of the Reclamation Board.

10 We also had notice of a hearing, because it was  
11 discussed at the last meeting and the meeting before that,  
12 and we knew there was a problem here.

13 Also, the hearing officer, you can -- the Board  
14 can do these by hearings. They can also do it as a Board  
15 action, if you read through the entire thing. I can be a  
16 hearing officer; the general manager can be a hearing  
17 officer; any Board member can be a hearing officer.

18 We typically don't do those. You might want to  
19 consider doing those, if you have something in Tulare  
20 Basin where you would go down, one person would hear it.  
21 If that's the case, then you have to prepare a report and  
22 bring that to the full Board for a decision. This has  
23 been brought to the full Board for a decision.

24 PRESIDENT CARTER: Any more questions for  
25 Mr. Bradley? I just have a question.

1           MEMBER BURROUGHS:  Why don't we get public comment  
2 first?

3           PRESIDENT CARTER:  Mr. Morgan, I just want to --  
4 are you comfortable in that the Reclamation Board is in  
5 compliance with the process we're using today?

6           LEGAL COUNSEL MORGAN:  I don't think there's a  
7 problem with the process.  I think the problem is, as we  
8 noticed with a lot of applications we've had, our  
9 regulations are designed for a 1950s style of a project.

10           And the Corps did everything with the  
11 participation of the State and the locals.  And  
12 encroachments were few.  There were boat docks and fences  
13 and things like that.

14           And the world has changed dramatically.  So we  
15 don't have too many spots to pigeonhole this in.  And  
16 basically Chief Engineer has recognized, it doesn't fit  
17 nicely into the application, and he put it in the  
18 enforcement category.

19           I don't think it would be a problem for the Board  
20 to take action here, especially in light of the fact that  
21 the applicant has -- well, would-be applicant, is here,  
22 and I think prepared to cooperate with the Board.  And I  
23 think perhaps waiving any objection, the Board could just  
24 move forward and take an action today.

25           PRESIDENT CARTER:  All right.

1           Mr. Foley, did you want to comment on this item?

2           MR. FOLEY: Thank you. Tom Foley, Yuba city.

3   When the Board is lenient with these local agencies,  
4   please keep in mind the catastrophic flooding in the  
5   Central Valley and the Marysville threats. The 500,000  
6   people protected by the levees cannot have the protection  
7   except through public agencies. The Rec Board is a flood  
8   control agency in the Central Valley.

9           The Rec Board has no other task before it but the  
10   protection of 500,000 lives and 47, 50 million dollars  
11   worth of property.

12           If the public is lacking the protection or a very  
13   real expectation of protection soon, we must look to the  
14   Rec Board, why not? The Rec Board is constrained only by  
15   funding and legal authority. And public, long ago, gave  
16   the Rec Board tremendous legal authority to get the job  
17   done. That authority, coupled with the bond money, leaves  
18   the public wellbeing in the Rec Board's hands.

19           In urban areas, the local agencies no longer have  
20   a public purpose. The Board must bypass local agencies  
21   and get the job done. Does the Board understand that  
22   there is a very real running cost that's done by experts,  
23   of \$1 billion a year, until the urban areas have 500-year  
24   protection, the state water supply is safe. There are  
25   costs that you have to calculate for the public safety.

1           That means, ten-year plans cause 5 million more  
2   than five-year plans. Add 5 years, add five billion.  
3   After Katrina, we know the costs of not dealing  
4   aggressively with catastrophic flood risks. To whom do we  
5   look to if the Rec Board does not act with urgency, when  
6   urgency is called for?

7           You are dealing very aggressive with the Tisdale  
8   action. That is an aggressive action.

9           Final note: In a flood control project, funding  
10   is integral with engineering. I want to repeat, because  
11   this does pertain, \$200 million was assured the public to  
12   lift the building restrictions in Plumas Lake. The Board  
13   leaves the public at risk without guaranteed funding  
14   sources.

15          Thank you.

16          PRESIDENT CARTER: Thank you. Mr. Smith?

17          Mr. Archer?

18          We're done with public comment unless there's  
19   somebody else that wishes to address the Board, I don't  
20   have a card for.

21          LEGAL COUNSEL MORGAN: Scott, I would ask Three  
22   Rivers, are you willing to waive any objections and  
23   proceed with Board action today to resolve this, or do you  
24   want to wait for another time?

25          MR. SHAPIRO: If the Board action is to require or

1 recommend or instruct staff to accept the application or  
2 process it, we are completely in support of that action.  
3 We don't believe that punitive enforcement action against  
4 Three Rivers is appropriate at all. And we certainly  
5 don't believe it's appropriate under the procedures that  
6 have been followed.

7 At the moment, I think all of our goal is to get  
8 this encroachment permit. We've submitted an application.  
9 If the decision is to accept it, and process it, we are  
10 completely in support of it.

11 LEGAL COUNSEL MORGAN: Do you accept the  
12 recommendations of the permit conditions?

13 MR. SHAPIRO: We haven't had a chance to talk  
14 about it. We haven't seen it before five minutes ago.

15 LEGAL COUNSEL MORGAN: Okay.

16 MR. SHAPIRO: If you would like to break on this  
17 item and have us address it later in the day, we would be  
18 willing to talk about it. But Paul, Ric, and I have not  
19 seen it until just now.

20 PRESIDENT CARTER: Perhaps the prudent thing is to  
21 table this and come back to it later on in the day. Are  
22 you willing to do that, so that you have a chance to  
23 review the conditions?

24 MR. SHAPIRO: Sure. Hopefully we can get a  
25 written copy, because I'm sure this is going to disappear



1 from the screen in a moment.

2 PRESIDENT CARTER: I'm sure we have copies.

3 Any other questions from the Board?

4 MEMBER RIE: Do we need a motion to table?

5 PRESIDENT CARTER: We would entertain a motion to  
6 table.

7 MEMBER RIE: I'm willing to table.

8 SECRETARY DOHERTY: Second.

9 PRESIDENT CARTER: We have a motion and a second.

10 All those in favor, indicate by saying "aye."

11 (Ayes.)

12 PRESIDENT CARTER: And opposed?

13 Okay.

14 MR. SHAPIRO: Thank you.

15 PRESIDENT CARTER: So we will come back to this,  
16 later on.

17 MR. SHAPIRO: When you see us sitting again, you  
18 will know we're ready, at your convenience.

19 PRESIDENT CARTER: Thank you.

20 So we will move on to Item 11, project study --  
21 Project or Study Agreements, West Sacramento Project,  
22 Consider Approval of Resolution 07-01.

23 Mr. Lee?

24 (Thereupon an overhead presentation was  
25 presented as follows.)

1 MS. LEE: Good morning, President, Members of the  
2 Board, and Mr. Punia. My name is Larry Lee from the  
3 Project Development Branch, and I am the project manager  
4 of the West Sacramento Project, for the State.

5 I have Mr. Ken Ruzich here, from West Sacramento  
6 Joint Powers Authority, and Ms. Nicole Ortega, from the  
7 Corps, is supposed to show up at any time. Both are here  
8 in support of this action and will answer any questions as  
9 needed.

10 In your packet, you have the fact sheet of the  
11 West Sacramento project; a draft copy of Resolution 07-01;  
12 a draft copy of Amendment 2 to the Project Cooperation  
13 Agreement between the Reclamation Board and the Corps of  
14 Engineers; a draft copy of Amendment 2 to the Local  
15 Project Cooperation Agreement, between the Reclamation  
16 Board and the West Sacramento Joint Powers Authority; and  
17 a map showing the West Sacramento Project with the  
18 proposed repair sites shown.

19 Just briefly, before I get to the map, the West  
20 Sacramento Project was constructed in the summers of 1999  
21 and 2000. This work consisted of raising and  
22 strengthening approximately 5 miles of existing levees by  
23 a maximum of five feet on the east side of the Yolo Bypass  
24 and south of Sacramento Bypass.

25 The project included relocation of utilities and

1 development of the wetland/marshland environmental  
2 restoration site contiguous to the Sacramento Deepwater  
3 Ship Channel.

4 After the project was constructed, there were some  
5 levee slips that occurred and were repaired in the summer  
6 of the 2002 and the summer of 2003. Then, more rock and  
7 levee slips were discovered during the high water in late  
8 2005 and early 2006. These are the sites in need of  
9 repair by this action and are shown on the map in your  
10 packet.

11 So in your packet, you see a copy of the West  
12 Sacramento Project that I have highlighted in yellow. And  
13 also, on one side, you see the rock slip. And then  
14 another area, you see the levee slip.

15 To accomplish repairs of the recent embankment  
16 and/or riprap slippages, I am here to request your  
17 approval of Resolution 07-01.

18 This would:

19 Delegate the authority to the General Manager, to  
20 negotiate an amendment to the LPCA, to accept advance  
21 funding from the West Sacramento Joint Powers Authority,  
22 and to transfer funds to the Corps for the federal share  
23 of project cost;

24 Delegate authority to the President or Secretary  
25 to sign the negotiated amendment to the local project

1 Cooperation Agreement with the West Sacramento Joint  
2 Powers Authority;

3 Delegate authority to the General Manager to  
4 negotiate an amendment to the Project Cooperation  
5 Agreement to advance funds from the State to the Corps,  
6 for the federal share of the project costs;

7 And delegate authority to the President or the  
8 Secretary to sign the Negotiated Agreement to the Project  
9 Cooperation Amendment with the Corps.

10 I would also like to mention that the appropriate  
11 1E bond funding and reimbursable are included in the  
12 2007-08 California Budget.

13 And this particular thing we're looking to  
14 advancing approximately \$2 million of nonfederal share, to  
15 the Corps, to fix the levee rock slips and levee slips.

16 And of that \$2 million, it would be cost-shared,  
17 70 percent, state; 30 percent, from the West Sacramento  
18 Joint Powers Authority.

19 Again, both the Corps and West Sacramento Joint  
20 Powers Authority are supporting this action.

21 And I was wanting to know if you have any  
22 questions.

23 PRESIDENT CARTER: Are there any questions for  
24 Mr. Lee?

25 Mr. Punia?

1           GENERAL MANAGER PUNIA: I just want to make a  
2 clarification. There is another project which will be  
3 coming on, later on, to the Board, that's separate than  
4 this. That's a locally funded West Sacramento project.  
5 This is a Corps project, which is almost finished, and  
6 needs to be a little bit of work remaining.

7           So I just want to make it clear, in the Board's  
8 mind, so that's West Sacramento project, totally different  
9 from this project. This is a Corps partnership project.

10          PRESIDENT CARTER: Which we referred to that other  
11 project as a Triangle Project; correct?

12          GENERAL MANAGER PUNIA: That's correct.

13          PRESIDENT CARTER: Okay. Any questions for  
14 Mr. Lee?

15          VICE PRESIDENT HODGKINS: Just to be sure I  
16 understand, in effect, modifying this cost sharing  
17 agreement allows the State and the local sponsor to the  
18 project to advance money to the Corps, to fix the problems  
19 that become apparent?

20          MS. LEE: Yes, up to the nonfederal cost share  
21 portion.

22          VICE PRESIDENT HODGKINS: Okay. I will so move.

23          PRESIDENT CARTER: Okay. We have a motion.

24          MEMBER RIE: Second.

25          PRESIDENT CARTER: And a second, to approve

1 Resolution No. 07-01.

2 Any further discussion?

3 Okay. All those in favor, indicate by saying  
4 "aye."

5 (Ayes.)

6 PRESIDENT CARTER: And opposed?

7 Motion carries.

8 MR. LEE: Thank you very much for your support of  
9 this project.

10 PRESIDENT CARTER: You're welcome.

11 Are we ready to revisit Item 10? Mr. Brunner,  
12 Mr. Shapiro, are we ready to revisit Item 10?

13 MR. SHAPIRO: We've made a few minor  
14 modifications, which would make it acceptable to us. Ric  
15 Reinhardt is running through them right now, with Steve  
16 Bradley.

17 If you would accept a five-minute break, we could  
18 consult with Mr. Morgan as well and hopefully have an  
19 agreement for you.

20 PRESIDENT CARTER: I think what we'll do is we'll  
21 go ahead, continue with the agenda. And we'll probably be  
22 breaking in about 30 minutes. Okay? Great.

23 So now we are -- there's no Property Management  
24 Issues under Item 12.

25 So Item 13: Application. Application No.

1 18159-1, Sacramento Area Flood Control Agency, Sutter  
2 County. Consider approval of a letter from the Board to  
3 the Corps and consider approval of the strengthening the  
4 left bank of the levee of the Natomas Cross Canal.

5 Mr. Mirmazaheri.

6 MR. MIRMAZAHERI: Good afternoon, President  
7 Carter, Members of the Board.

8 For the record, I'm Mike Mirmazaheri, Department  
9 of Water Resources. And this is Item 13. It is an  
10 application submitted by Sacramento Area Flood Control  
11 Agency.

12 (Thereupon an overhead presentation was  
13 presented as follows.)

14 MR. MIRMAZAHERI: The purpose of the project is to  
15 construct a seepage cutoff wall -- the purpose of the  
16 project is to construct a seepage cutoff wall on the south  
17 levee of the Natomas Cross Canal.

18 This project, the purpose of it is to provide  
19 additional flood protection by strengthening the south  
20 levee of the Natomas Cross Canal.

21 --o0o--

22 MR. MIRMAZAHERI: Specific objectives of this  
23 project are to address: One, throughseepage and  
24 underseepage; and, two, is this is -- to initiate the  
25 first phase of the improvements that SAFCA is proposing

1 for the Natomas area.

2 --o0o--

3 MR. MIRMAZAHERI: I apologize. I borrowed this  
4 graphic from SAFCA's presentation a couple weeks ago.  
5 This one basically shows what could happen.

6 There are two -- there are two type of seepage  
7 that we have concern. One is through the levee. When the  
8 water level is high, the water could push itself through  
9 the levee and get to the land side. And as a result, you  
10 could have saturated soils on the slope, on the landside,  
11 and perhaps experience slumping of the levee here.

12 The other type is that water pushes itself under  
13 the levee foundation and just seeps through it, on the  
14 land side. You could end up with spoils, and you could  
15 potentially have inundation on the land side of the levee.

16 --o0o--

17 MR. MIRMAZAHERI: To mitigate for that, a cutoff  
18 wall is known to help, at least to the best knowledge that  
19 we have for engineering that we have now. Cutoff wall is  
20 supposed to help.

21 And what it does is, basically is, the cutoff wall  
22 usually extends through the impermeable layer under the  
23 foundation. And in case of high water, the water is going  
24 to have to travel longer and goes around the cutoff wall  
25 to be able to get to the other side. That means higher



1 energy and normally cutoff wall, in this case, is very  
2 helpful. And the water will not show up or is not  
3 expected to show up on the land side.

4 This is what's proposed by SAFCA on Natomas Cross  
5 Canal. And I will just let it be on the screen for  
6 another few seconds and go on.

7 --o0o--

8 MR. MIRMAZAHERI: The project location. The  
9 project is in Sutter County. It's actually north of  
10 Sacramento. It's west of Highway 99. And it's in an area  
11 called North Natomas area, basically. Many of us who live  
12 here, near Sacramento, I think we all know where this area  
13 is.

14 --o0o--

15 MR. MIRMAZAHERI: But this is just a picture to  
16 illustrate that better. On the east side, we got Natomas  
17 East Main Drain. On the north side is Natomas Cross  
18 Canal. And west of it is Sacramento River. And American  
19 River comes in at this location, basically. And that  
20 defines Natomas.

21 --o0o--

22 MR. MIRMAZAHERI: Natomas Cross Canal, they wanted  
23 it north. This is a closer picture of that. That's a  
24 close area of that. And basically, it goes from southwest  
25 to northeast.

1 --o0o--

2 MR. MIRMAZAHERI: Land use in the area, just  
3 adjacent to the south levee of Natomas Cross Canal is  
4 generally rural. County roads, Garden Highway, ag lands,  
5 campground, marinas, restaurants, a store, and a few  
6 houses within a distance, can be categorized in this area.

7 Steve changed the computer on me and it's beeping.  
8 I don't know what it is.

9 --o0o--

10 MR. MIRMAZAHERI: The project has three reaches:  
11 Reach 1, which begins from the confluence of Sacramento  
12 River, and goes about 550 feet north; Reach 2 is about  
13 10,000 feet, and continues northeast; and Reach 3 is about  
14 1500 feet.

15 Specifically, Reach 1 as I said, it begins from  
16 confluence of Natomas Cross Canal and Sacramento River.  
17 There's an existing pipe in that area. SAFCA is going to  
18 inspect the pipe. It's going to make sure that the  
19 existing pipe is meeting Corps criteria and also Rec Board  
20 and regulations. If not, SAFCA will remove the pipe  
21 completely.

22 As a part of Reach 1, also, there's 500 feet from  
23 the confluence, down south, on the Sacramento River East  
24 Levee, that will tie into this one.

25 --o0o--

1 MR. MIRMAZAHERI: Reach 2 is about 10,000 feet, as  
2 I said. And it just picks up from end of Reach 1 and  
3 continues northeast on the south levee of Natomas Cross  
4 Canal.

5 --o0o--

6 MR. MIRMAZAHERI: Reach 3 is, again, 1500 feet  
7 long. There's also a pipe under Reach 3 of the south  
8 levee. Same thing: SAFCA is going to inspect it, make  
9 sure that the existing pipe meets the criteria of the  
10 Corps and also the Board regulations. And after that, if  
11 there's a need to remove it, we will remove it.

12 --o0o--

13 MR. MIRMAZAHERI: This project is within  
14 Reclamation District 1000. This is the north part of the  
15 Reclamation District 1000. And the other side of Cross  
16 Canal, in 1001, begins.

17 Right here is the boundary between Sacramento  
18 County and Sutter County. And north of it is where the  
19 project area is.

20 --o0o--

21 MR. MIRMAZAHERI: There is an EIR done, completed  
22 by SAFCA on that. It's for Phase 1 improvement project,  
23 Volume 2. We had a chance to review it. We had a chance  
24 to review it.

25 And SAFCA also has a resolution. SAFCA's

1 Resolution, No. 07-015. They have some findings. They  
2 will discuss the findings. And as a part of the findings,  
3 this EIR discusses potential temporary short-term impact  
4 or erosion and water quality. They have mitigated for  
5 both, for the erosion.

6 Basically what they have done is, they are  
7 implementing standard best management practices. They are  
8 also including some measures to avoid and mitigate for the  
9 short-term erosion design and construction method.

10 --oOo--

11 MR. MIRMAZAHERI: And in terms of water quality,  
12 they are also needing or planning to meet and comply with  
13 the Stormwater Pollution Prevention Plan and NPDES,  
14 National Pollutant Discharge Elimination System.

15 In terms of hydraulic, which is more concern for  
16 this Board, is the current practice is that the seepage  
17 will go into a canal, and then gets recycled back into the  
18 cross canal -- the Natomas Cross Canal. It gets back in  
19 there. So it pretty much recycles itself.

20 I asked SAFCA to do a simple calculation, a  
21 geotechnical calculation, and give us an idea what type of  
22 flow we expected, now, as is, without the cutoff wall.  
23 And the calculation shows only about 4 CFS. 4 cubic feet  
24 per second is expected to seep through the south levee of  
25 the Natomas Cross Canal. And that is with the assumption

1 of having the 22,000 CFS in the channel. So 4 CFS out of  
2 22,000 is absolutely significant.

3 And again, in addition to that, the practice of  
4 recycling and returning the water back into the canal will  
5 continue even after that, if the seepage persists and it  
6 remains the same.

7 --o0o--

8 MR. MIRMAZAHERI: SAFCA had a chance to look at  
9 the permit, and they have -- they communicated some  
10 comments to me. And one of the comments they had is in a  
11 report and also in the draft permit before you; we are  
12 referring to the project as a slurry wall. Their concern  
13 was that if the slurry wall will tie down to the specific  
14 construction method, they wanted to have the freedom to do  
15 that.

16 And the response to that is that we use the slurry  
17 wall as a generic, not specific to any construction  
18 method, because we do not dictate specific construction  
19 method to applicant. So they are free to construct the  
20 encroachment by whatever method of construction they  
21 choose.

22 The second question or concern they had is, we  
23 have some conditions in the draft permit which typically  
24 we have it for every encroachment. I think the question  
25 that SAFCA had is, if this project will become part of the

1 feature of the Sacramento Flood Control System in the  
2 future, then it is considered as a modification to the  
3 existing system.

4 So why you need some additional conditions. The  
5 response to that is -- and that was communicated to SAFCA.  
6 It's true that down the road, you know, if Corps accepts  
7 that encroachment to become a part of the project, it will  
8 become a feature of the project.

9 But until then, from our view, it is an  
10 encroachment, and because it's an encroachment, then the  
11 standard conditions that apply to every encroachment will  
12 apply here as well.

13 SAFCA also questioned the indemnification clause.  
14 And they think that land use needs to be cleaned up. And  
15 it's something that we're looking to mitigate and see if  
16 change needs to be done. That would be something that  
17 have to get Scott and Nancy involved into that, and look  
18 at it. So it's beyond technical issues.

19 There was also a question regarding permanent  
20 easement. Condition No. 15 in the draft report, before  
21 you, states something like -- something to the effect that  
22 prior to the construction, SAFCA is supposed to grant an  
23 easement to the Sacramento San Joaquin Drainage District.  
24 And I think the point was valid, that prior to  
25 construction it would not be possible; they have to

1 purchase the easement, and they are actually planning to  
2 do it as a part of the bigger project.

3 So as a result of that communication with SAFCA,  
4 that Condition No. 15 has been modified to what you see on  
5 the board now. Instead of saying, "prior to  
6 construction," now it says, "Upon commencing of any future  
7 levee improvement work along the Natomas Cross Canal or  
8 three years from completion of the construction of the  
9 cutoff wall, approved by this permit," and then we'll  
10 continue saying that SAFCA will grant the permit.

11 So in other words, instead "prior to  
12 construction," which they planned to go in construction  
13 around beginning of June, instead of saying that, it's  
14 just "either three years from now, from the completion of  
15 cutoff wall" or coming to us for another permit.

16 So that's something that was forwarded to SAFCA.  
17 And since I haven't heard any objection, I take it as they  
18 agree with that.

19 --o0o--

20 MR. MIRMAZAHARI: One last item was the design  
21 strength, Condition No. 45. Basically talks about  
22 incurring a period of seven days or 300 PSI for the  
23 mixture, before they will cover that.

24 And their recommendation was -- their proposal was  
25 to change that to 80 percent of design strength. And we

1 have no objection to that. So Condition 45 now reads as  
2 follows: "Restoration of the degraded levee shall not  
3 begin until cutoff wall has incurred and achieved at least  
4 80 percent of its design strength prior to beginning  
5 backfill or as allowed by the Corps."

6 There are several miscellaneous, not of substance,  
7 miscellaneous comments, maybe cleanup language, which I  
8 will not address here. That's something that we'll  
9 definitely consider before finalizing the permit.

10 --oOo--

11 MR. MIRMAZAHERI: Now, as a discussion, the cutoff  
12 walls, I think, was discussed a little bit earlier today.  
13 The cutoff walls are permanent features. It is not like  
14 any other encroachment -- fence or vegetations or maybe  
15 steps on the land side of the levee that, you know, if it  
16 becomes a problem, you just go in and ask it to be  
17 removed. You know, the cutoff wall and removal of that is  
18 actually next to impossible.

19 So it is a feature of the project. So because of  
20 it, the Corps of Engineers needs to be involved in the  
21 final decision making on that.

22 The Board past practice, we did not request that  
23 provision from the Corps before we proceeded with the  
24 cutoff wall or granted a permit for the cutoff wall. I  
25 think this is the first application, at least to my



1 knowledge, that we are taking it to the Board, and you are  
2 asking, at the same time, the Board, to approve a letter,  
3 send a letter asking Corps permission for the  
4 modification. And it is modification. It's modification  
5 of the existing project.

6 And because the owner of the project is the Corps  
7 of Engineers, the federal government, the state is not  
8 authorized to make that final -- that final.

9 --o0o--

10 MR. MIRMAZAHARI: That takes me to staff  
11 recommendation. I will bypass this because, based on the  
12 recommendation and suggestion by Board Counsel,  
13 Mr. Morgan, I'm going to read the staff recommendation to  
14 you, slightly changed from what I have on this slide.

15 So because of it, to avoid any distraction, I'm  
16 just going to read this one.

17 One, I request the Board approve the draft letter  
18 requesting U.S. Army Corps of Engineers to grant  
19 permission to the Board to modify the federal Flood  
20 Control Project Levee;

21 Two, I further request the Board making findings  
22 that A, environmental impacts of this project, within the  
23 jurisdiction of the Board have been mitigated or avoided,  
24 as a result of the changes, alterations, and mitigation  
25 measures incorporated into the project; B, mitigation

1 measures set forth in SAFCA's EIR, relating to flood  
2 control and public safety, are hereby adopted, and SAFCA's  
3 Mitigation Monitoring Plan is incorporated by reference;  
4 Part C of second portion, based on the evidence presented  
5 to the Board, the project will not resolve any hydraulic  
6 impact that will have significant effect on the  
7 environment;

8 Third portion of this request is that I request  
9 the Board to approve Draft Permit No. 18159-1, with,  
10 obviously, the changes;

11 And then, 4, finally, I request the Board to  
12 delegate authority to General Manager to finalize the  
13 permit.

14 As I said, some of the miscellaneous uses with  
15 SAFCA can be resolved. It's not of any substance, but I  
16 think it would be better to look at finalizing it. So  
17 delegating this to the general manager would be really  
18 helpful to staff.

19 And that's the end of my presentation. And if  
20 there's any question, I would be more than happy to take  
21 it.

22 PRESIDENT CARTER: Any questions for  
23 Mr. Mirmazaheri?

24 MEMBER RIE: I have a question for the Corps. I  
25 saw Mr. Sandner sitting back there.

1           Good afternoon, Mr. Sandner.

2           MR. SANDNER: Good afternoon.

3           MEMBER RIE: My question is, we received a letter  
4 from Colonel Light -- oh, I'm sorry. I believe it was  
5 Mike Mahoney, yes. And in the letter, it says that the  
6 district engineer has no objection to the approval of this  
7 application by your board.

8           I just wanted to get your concurrence on that.

9           MR. SANDNER: That's correct.

10          MEMBER RIE: The Corps is okay with the Board  
11 approving this application for the cutoff wall?

12          MR. SANDNER: Under the terms of the letter that  
13 we sent to you, we would not object. There is still a  
14 question as to whether or not a particular authority is  
15 required for granting permission for this type of  
16 improvement.

17          MEMBER RIE: Now, our staff has drafted a letter,  
18 which we are going to send to the Corps, requesting  
19 permission of the Corps to allow modification on the Corps  
20 project.

21          Would you have any objection to us using the  
22 wording that the Board is requesting a determination from  
23 the Corps, rather than requesting permission? As you just  
24 said, we don't know what authority the Corps is going to  
25 use to review this particular application.

1           MR. SANDNER: Again, I'm not an attorney, so I  
2   can't really advise you on what terms you are going to use  
3   to put in the letter.

4           But there are several different authorities that  
5   can be used in working with a nonfederal sponsor on  
6   improvements or alterations or modifications to a project.

7           And we would look at all of those authorities when  
8   we receive your letter, to make a determination as to what  
9   is required.

10          MEMBER RIE: Okay. Thank you.

11          MR. SANDNER: All right.

12          Any other questions?

13          PRESIDENT CARTER: Any other questions for  
14   Mr. Sandner?

15          Thank you.

16          Any questions for Mr. Mirmazaheri?

17          I have one: Why are we doing a slurry wall here  
18   and not a seepage berm?

19          MR. MIRMAZAHERI: That's a question I think for  
20   SAFCA to answer. They are proposing that project, and  
21   they have evaluated different methods to mitigate for the  
22   seepage. So I would defer that to SAFCA.

23          PRESIDENT CARTER: Okay.

24          MR. BASSETT: John Bassett, Director of  
25   Engineering for SAFCA.

1           We looked at the three methods that Member  
2   Hodgkins had outlined this morning: The cutoff walls, the  
3   seepage berms, and the relief wells.

4           We found that relief wells were not a workable  
5   solution in this first reach of the Natomas Cross Canal,  
6   because of the strata underlying the levee did not lend  
7   themselves to relief wells.

8           We looked at the cutoff walls. Cutoff walls could  
9   be implemented to a depth of between 70 and 80 feet. That  
10   is a proven construction method. The Corps has  
11   constructed walls to that depth along, approximately, 26  
12   miles of the American River. Those performed well in all  
13   of the recent high water events, not really design-level  
14   events.

15           We also looked at the seepage berm. And the  
16   seepage berm, particularly in Reach 2 of this area, would  
17   have to be on the order of 300 feet wide to bring the  
18   anti-gradience down to the level that the Corps specifies  
19   for the total -- of the seepage berm.

20           In addition to that, the existing drainage canal  
21   that is along the levee is, right now, about a hundred  
22   feet away from the toe of the levee. You would have to  
23   relocate that canal to construct the 300-foot-wide seepage  
24   berms. You would have to move the canal an additional  
25   hundred to 200 feet off the toe of the berm.

1           In Reach 1 and Reach 3 of this project, you could  
2   construct a hundred-foot-wide, plus or minus, seepage  
3   berm, but you would also still have to, again, relocate  
4   the canal, because they are integrating in the bottom of  
5   the canal, that are higher than the allowable for the  
6   Corps of Engineers. So you could do the berm. You would  
7   have quite a bit of canal relocation.

8           And looking at the cost of the two different  
9   projects, the constructions only, for the cutoff wall,  
10   since it would not require additional right of way, is in  
11   the order of 17 to 20 million dollars.

12           If you were to build a seepage berm in this area,  
13   in addition to the construction costs plus the  
14   right-of-way costs, they are in the \$45 million range for  
15   the first three reaches.

16           So it was done, looking at all three methods that  
17   are available, and basically concluding that the cutoff  
18   wall is the most economic way to fix this underseepage  
19   issue in this reach.

20           We've had the Corps review our design, review our  
21   alternatives analysis, and they are basically in support,  
22   that a cutoff wall is an appropriate fix in this reach.

23           PRESIDENT CARTER: Thank you.

24           Did you have some general comments you wanted to  
25   make?

1 MR. BASSETT: Are you done, Mike?

2 MR. MIRMAZAHERI: Go ahead.

3 MR. BASSETT: On the issues of the permit  
4 conditions, I think Mike has identified that we're still  
5 kind of discussing several of the items. In particular, I  
6 wanted to identify Condition 52, 54, and 62.

7 So as long as the general manager has the ability  
8 to work with us on those items and resolve some of our  
9 discussions, then we're fine with the rest of the permit  
10 conditions. And I guess Mr. Washburn, our attorney, may  
11 have some discussion on -- I think, it's Item 13, the  
12 Coordination with the Corps of modification of the federal  
13 project. But those are our other issues we're resolving  
14 with the permit.

15 PRESIDENT CARTER: Okay. Any questions for  
16 Mr. Bassett?

17 All right. Mr. Washburn?

18 MR. WASHBURN: Tim Washburn, agency counsel. I'm  
19 supposed to bite my tongue here today. And I am doing  
20 that.

21 But I'm just going to let you know that we really  
22 don't agree with the theory that we need some specific  
23 permission from the Corps for this project. So if it were  
24 our language to choose, we would have no problem with  
25 asking for some written indication from the Corps, that

1 this project will not be injurious to the federal project.

2 That, we would have no problem with.

3 But we do have a problem with the idea that there  
4 is some kind of a separate permit process required here.  
5 We're not objecting here. We need to move forward, so we  
6 don't want to get into a full-throated debate on this  
7 issue. It is an important issue.

8 Once again, SAFCA is, I suppose, the first project  
9 for some of these pilot test cases on some of these  
10 issues. And we usually take it and keep moving. We're  
11 not always sure that, you know, the end result is the  
12 best. But in this case, we're prepared to moved forward.  
13 But we would just advise, at least from agency counsel's  
14 point of view, that we would prefer different language.

15 But we're not prepared to stop the process to get  
16 it.

17 Thank you.

18 MEMBER RIE: Can I ask you a couple of questions?

19 MR. WASHBURN: Sure.

20 MEMBER RIE: I would like to propose that  
21 Condition 13 be reworded.

22 Instead of saying, "The Board has granted written  
23 permission by the Corps," I would like to change that to,  
24 "received a determination by the Corps," that the project  
25 can be modified. And then the same language for the



1 request to the Corps. "The Board is seeking a Corps  
2 determination of the Corps to allow modification of the  
3 project, and the Board is requesting a Corps determination  
4 so that SAFCA may proceed with this modification."

5 Are you okay with that language, if our Board  
6 proposes that?

7 MR. WASHBURN: We -- I think "determination" is  
8 preferable to "permission."

9 My friend Scott tells me -- although Scott is  
10 also. My other friend Scott Shapiro tells me that  
11 "determination" has some particular usage in federal  
12 practice that we might actually prefer written -- I think  
13 the essence of it is written indication from the Corps  
14 that the work that's being proposed is not injurious to  
15 the federal flood control system. That's what we think is  
16 the bottom line here, an indication from the Corps that  
17 what is proposed to be done is not injurious. We think  
18 that's reasonable.

19 MEMBER RIE: Scott, would you be okay with using  
20 the wording, "The Board is seeking a Corps determination  
21 to allow modification on the project?"

22 LEGAL COUNSEL MORGAN: Well, I think what  
23 Mr. Washburn suggested or -- somebody from SAFCA suggested  
24 that if it is delegated to the general manager to finalize  
25 the language, we could work with SAFCA on some

1     satisfactory language.

2             I know, the Board is not wedded to the notion of  
3     getting Corps permission, if the Corps doesn't believe  
4     permission is required. If the Corps can indicate, by a  
5     letter, that this level of activity doesn't required any  
6     further review, then we just need to make sure that we are  
7     not going beyond what the federal partner in this project  
8     wants done, unilaterally. And we can get that in writing  
9     from the Corps in whatever way.

10            I don't want us to hear -- commit ourselves to a  
11     language that might, as Scott Shapiro suggests, have  
12     special significance to the federal government.

13            But I think we can change that language, in some  
14     way, that's satisfactory to SAFCA, if the Board gives the  
15     general manager the discretion to that action.

16            MEMBER RIE: This letter that we've drafted up, it  
17     may not even be necessary. But at this time, Mr. Sandner  
18     has indicated that the Corps has not decided which  
19     authorization is appropriate at this time. So I would  
20     like the Board to go ahead and approve the letter, just in  
21     case we need it. I just don't want to use the word  
22     "permission."

23            So if counsel, SAFCA counsel, and Rec Board  
24     counsel could get together and agree upon more appropriate  
25     language, I would like to delegate that authority, to you

1 and the general manager and Steve Bradley, to work that  
2 out with SAFCA.

3 LEGAL COUNSEL MORGAN: I would be happy to do that  
4 as well.

5 MEMBER RIE: Would you be okay with that?

6 MR. WASHBURN: Yes, and I think as Scott, as my  
7 friend Scott Morgan, indicates, we will want to sit down  
8 with the Corps and make sure that we're all three on the  
9 same page here. I think that's the spirit of what Scott  
10 is saying. If we can all agree on the same page, I think  
11 he'd be happy and we'd be happy and the Corps would be  
12 happy.

13 LEGAL COUNSEL MORGAN: Lawyers like each other.

14 (Laughter.)

15 PRESIDENT CARTER: They're the only friends you've  
16 got.

17 (Laughter.)

18 LEGAL COUNSEL MORGAN: There is one -- I'm about  
19 to lose one of my lawyer friends.

20 There's one other condition that was discussed,  
21 that did not make it into the draft, that I want to make  
22 the Board aware of. And I want to remind SAFCA that we  
23 discussed this. Because this is contrary to what,  
24 although the Board did not have a longstanding practice  
25 with getting permission from the Corps or getting any kind

1 of written response from the Corps on the nature of the  
2 project and whether the project can be modified or whether  
3 the Corps has an interest in this level of modification.  
4 But the practice so far has been to say that the Board, as  
5 the non-federal sponsor, and the partner with the Corps,  
6 will make the request of the Corps, the Corps will respond  
7 back to the Board and say, "Yes, Board, you may now modify  
8 the project in this way." And at this point the Board  
9 issues the permit.

10 And what we're doing here is, in the interest of  
11 time, is doing it all at once, and issuing -- approving  
12 the letter and issuing the permit that's conditional upon  
13 that -- whatever kind of level of review is done by the  
14 Corps.

15 So we wanted to find out from SAFCA, and June 1st  
16 2007, is when we want to begin the activity. So we would  
17 need that response back from the Corps, by then. This  
18 permit would be valid only up until that date. And we  
19 would have to have some response from the Corps before  
20 that time. I think that's a reasonable amount of time, so  
21 that circumstances won't change, and there won't be a long  
22 delay between the project approval and Corps approval or  
23 Corps acquiescence.

24 PRESIDENT CARTER: Thank you.

25 Mr. Mirmazaheri, you have something else?

1 MR. MIRMAZAHERI: No, unless there are questions.

2 PRESIDENT CARTER: There are a couple of folks  
3 from the public who do want to comment on this.

4 Mr. Foley, did you want to comment on this item?

5 I'm assuming, Mr. Bassett, you are done with your  
6 comment?

7 MR. BASSETT: Yes, I am.

8 PRESIDENT CARTER: I apologize, Mr. Foley. Just  
9 wanted to clarify.

10 MR. FOLEY: Oh. Thank you very much. No problem.

11 Good afternoon, Board. Thank you again.

12 If SAFCA, the north levee is protecting -- I don't  
13 know what is it -- 30, 40 thousand people down there, and  
14 the sand berms are the better solution, then 17 versus 50  
15 is not an economical thing to do. That is a false  
16 anomaly. Considering what that levee is protecting,  
17 whatever's considered the safest, SAFCA should be doing.

18 PRESIDENT CARTER: I didn't follow you there.  
19 Could you --

20 MR. FOLEY: The sand berms -- I thought the sand  
21 berms are considered the safest solution to these things.  
22 When you asked the Corps, why are you going with a slurry  
23 wall instead of a sand berm, they gave you the reason that  
24 it's economical. That is not good economics, to go with  
25 lesser safe, on the difference between 1750 -- \$35 million

1 for what that's protecting. That is economical, the  
2 reason they gave you. That's risking tremendous over --  
3 say 50, 17 -- 47, 17, whatever that is. That's not  
4 economical. Who's going to be protected by that, if  
5 there's a safer -- if the sand berms are safer? When you  
6 asked that question, that came to my mind, and they gave  
7 you as an answer that a slurry wall wouldn't be  
8 economical. But if the slurry wall is the second best  
9 solution, that is not economical.

10 PRESIDENT CARTER: My understanding, and maybe I  
11 didn't hear the response to my question correctly, but my  
12 understanding was that the three options are all -- can  
13 basically all be engineered equivalently and provide the  
14 same level of protection, depending on how they are  
15 designed -- and the slurry wall, was the economic one.

16 But as far as level of safety, a cutoff wall can  
17 be engineered as safe as a seepage berm and vice versa, as  
18 well as the application of relief wells.

19 MR. FOLEY: Well, we heard earlier that sand berms  
20 were the safest.

21 Okay. Mr. Shapiro?

22 MR. SHAPIRO: Thank you, President Carter. Scott  
23 Shapiro.

24 Actually, speaking as general counsel of the  
25 California Centralized Flood Control Association, in

1 addition to my role as special counsel for Three Rivers,  
2 I've also been blessed, since George Basye's retirement,  
3 of being general counsel for the Flood Control  
4 Association.

5 Those comments are offered in that context,  
6 although I believe Three Rivers agrees with these  
7 comments. As the Flood Control Association looks at all  
8 of the flood protection work that's been done in the  
9 Valley over the last five or ten years, significant work  
10 has been done by local agencies in the state. If you will  
11 look at the SJAFCA project down in Stockton; if you look  
12 at SAFCA work, it has gone ahead of the Army Corps of  
13 Engineers; if you look at Three Rivers work; you look at  
14 the permit that's been issued for Wheatland, to do some  
15 improvements there -- these are all examples of local  
16 agencies stepping up, raising the funds and saying, "The  
17 federal process sometimes takes too long. We need to get  
18 ahead of it."

19 The Association's concerned about anything that  
20 might add bureaucracy or undue process to allowing local  
21 projects to proceed faster than the federal projects, that  
22 might otherwise proceed. And our comments here are really  
23 in regard to Permit 13 and the draft letter.

24 We share the concern that we should not do  
25 anything which makes the process harder or longer. We

1 want to make sure that, for example, we not introduce an  
2 extra three- or six-month process into these permits, out  
3 of fear that might result in work not getting done during  
4 the flood control season and having to go an extra season.

5 If you look at the work that's been approved by  
6 this Board, for the last five years, for those local  
7 projects, there's been six slurry walls and a number of  
8 levee raisings, none of which required the 408 approval.  
9 Now, I will admit, a lot of those, if not all of them, are  
10 before the Corps, now, on this issue.

11 But I guess the point that I would like to make is  
12 that we should do whatever we can to facilitate the  
13 fastest Corps process, and not necessarily dictate to the  
14 Corps, or try to dictate, what that process is going to  
15 be.

16 We would encourage the Board to consider a  
17 modification to Permit Condition 13, along the lines that  
18 Ms. Rie indicated. We developed some language which I  
19 will share with you, briefly. It says, "This permit is  
20 not valid until the Board has received a written response  
21 from the U.S. Army Corps of Engineers that installing a  
22 slurry cutoff wall, as defined by this permit, will not be  
23 injurious to the federal flood control project." If you  
24 inserted a condition like that, you could still send a  
25 letter to the Corps. The Corps would do whatever process



1 the Corps is going to do.

2 As a local agency, I hope the Corps will say,  
3 "It's 20810 review that it's already provided, and the  
4 letter that Ms. Rie read was adequate." If the Corps  
5 indicates that no more is required and there needs to be a  
6 104 or a 408 or whatever it is, so be it.

7 But I would like to encourage this Board to push  
8 towards the fastest and easiest process that it possibly  
9 can.

10 At a minimum, I do support the removal of the  
11 reference to "permission" from the letter. And I would  
12 also suggest that the reference to the Corps procedure  
13 memo, that's in the letter, be removed, so that the letter  
14 itself doesn't dictate what process the Corps follow.

15 Of course, the Board can't dictate to the Corps,  
16 and I'm very aware of that. But sometimes, the way things  
17 get worded in the letter suggest to someone how things  
18 should be processed. And I think we all should be  
19 processing these things as smoothly and efficiently as we  
20 can.

21 And thank you for the chance to comment.

22 PRESIDENT CARTER: Thank you.

23 MEMBER BURROUGHS: Mr. President, I would like  
24 legal counsel to make comment on the wording that was just  
25 made.

1           LEGAL COUNSEL MORGAN: The -- I think the one  
2    thing I know that the phrase, "The project [sic] won't be  
3    injurious to the project" also has significance to the  
4    federal government. I'm not sure if that's going to be  
5    the same as authorization to modify a federal project.

6           But I am -- I think is Board the fully protected  
7    in maintaining its responsibilities to the federal  
8    government by writing a broadly open-ended letter, saying,  
9    we're looking for Board -- Corps input on this, to the  
10   extent that this is necessary. If the Corps determines,  
11   through this process, that a slurry wall doesn't require  
12   408 review or anything else beyond, you know, maintenance  
13   sort of review, they can, the Corps can, let us know that  
14   officially and we'll know what to do with the next slurry  
15   wall.

16           But I think, because this is, I think, in a state  
17   of flux with the Corps, and they are going to be testing  
18   the waters a little bit, I would like to give them the  
19   opportunity to let us know where they want to have  
20   jurisdiction over their project and where they don't.

21           But that being said, I am happy to remove things,  
22   that appear to direct the Corps towards a certain path,  
23   from the letter. I think that's appropriate.

24           PRESIDENT CARTER: Okay. Any questions from the  
25   Board?

1           Any discussion? Direction?

2           MEMBER RIE: I would like to make a motion, if you  
3 all are ready.

4           PRESIDENT CARTER: I think we're ready.

5           MEMBER RIE: Okay. I move that we delegate  
6 authority to the general manager to sign this permit; that  
7 we make CEQA findings, per the staff report, and all the  
8 CEQA findings are in the staff report; that we make a  
9 determination that this project is not injurious to the  
10 public; I would like to delegate to the staff and counsel  
11 to sign the letter to Colonel Light and make it as broad  
12 as possible without advocating any specific authority; and  
13 I would like to delegate that the staff work with SAFCA  
14 and counsel to finalize the wording of each of the special  
15 conditions.

16           That's it.

17           VICE PRESIDENT HODGKINS: I'm lost in terms of the  
18 procedure. I think delegating it to staff, I would like  
19 to delegate it to the general manager, working with  
20 counsel and the rest of staff, so that it's clear.

21           MEMBER RIE: Yes.

22           VICE PRESIDENT HODGKINS: With that concept and  
23 change, I will second the motion.

24           PRESIDENT CARTER: Okay. We have a motion and a  
25 second. And there are -- I counted five pieces of that

1 motion. And I don't know that I got them all.

2 MEMBER RIE: I will summarize it, if you'd like.

3 PRESIDENT CARTER: That would be great, if you  
4 would please.

5 MEMBER RIE: Just to clarify, I would like to  
6 delegate to the general manager to sign this permit and to  
7 sign the letter, and with help from the chief engineer,  
8 DWR, and legal counsel, to finalize the exact wording; I  
9 would like to move that we make CEQA findings as stated in  
10 the staff report; and I would like to move that we, as  
11 part of the same motion, that the Board make a  
12 determination that this project is not injurious to the  
13 public.

14 So that was the separate one.

15 PRESIDENT CARTER: Does everybody understand the  
16 motion?

17 Is there any discussion?

18 MEMBER BURROUGHS: I would have a question for  
19 staff. Do you have any comments on....

20 CHIEF ENGINEER BRADLEY: By "staff," you mean  
21 chief engineer?

22 MEMBER BURROUGHS: Yes.

23 CHIEF ENGINEER BRADLEY: I actually have not  
24 worked on this project at the moment and haven't really  
25 looked at all this stuff.

1           I kind of agree with Scott, that I think we should  
2   send a broadly-worded letter to the Corps and let them  
3   figure out what they want to do, and tell us, if they  
4   don't want to regulate this, that's fine. If they do,  
5   then they need to tell us what process we will go through.

6           So I'm very comfortable with the broadly-worded  
7   letter. I'm not worried about "permission," which I  
8   presume has special significance to the federal  
9   government. You know, "determination" may be better. I'm  
10  more than happy as long as the request we make to the  
11  Corps to get permission -- to get some written response  
12  that says, we can do this. They are -- this is a federal  
13  project, and we are their nonfederal sponsor.

14          So on the permit conditions, I think we can work  
15  those out. It's something we do on a daily basis.

16          MEMBER BURROUGHS: And one last question. On the  
17  comment about equal safety -- or level of protection. Do  
18  you have any comments on that?

19          CHIEF ENGINEER BRADLEY: You mean between the  
20  seepage berm and the slurry wall?

21          It was my understanding, as Ben kind of  
22  summarized, that either one would work. And then in this  
23  case, it was just cheaper to do the slurry wall. It  
24  wasn't that a seepage berm was better at providing  
25  protection. It's just one costs three times as much to

1   implement.

2           He did make a statement that the seepage wells  
3   were not appropriate for this site, but between seepage  
4   berm and slurry wall or cutoff wall, that they both  
5   provided equal protection, but to implement one was three  
6   times the cost of the other.

7           MEMBER BURROUGHS:   Okay.   Thank you.

8           PRESIDENT CARTER:   Any other questions?

9           Everyone understands the motion?

10          So all those in favor, indicate by saying "aye."

11          (Ayes.)

12          PRESIDENT CARTER:   And opposed?

13          The motion carries.

14          Very good.   Let's take a ten-minute --

15          GENERAL MANAGER PUNIA:   I want to make a  
16   statement.

17          PRESIDENT CARTER:   You want to make a statement?

18          GENERAL MANAGER PUNIA:   I just want to acknowledge  
19   Mike Mirmazaheri's dedicated work to the Board.   He has  
20   accepted another job and a promotion, and he can run but  
21   can't hide.   He will be working with Dave Mraz starting  
22   April 2nd.

23          MEMBER RIE:   Congratulations, and thank you for  
24   all the hard work you put into the permit application you  
25   just discussed.

1           PRESIDENT CARTER: So we'll take a ten-minute  
2 recess. We'll be back here in ten minutes to continue.

3           (Thereupon a break was taken in  
4 proceedings.)

5           PRESIDENT CARTER: Ladies and gentlemen, if we  
6 could go ahead and take our seats, please, we will  
7 continue.

8           Having just wrapped up Item 13, what I would like  
9 to do is if we -- if all parties are ready, I would like  
10 to return to Item 10, which we tabled earlier in the  
11 meeting.

12           And this is the Item 10, the Unauthorized  
13 Detention Basin, Yuba River, Reclamation District, 784  
14 Yuba County.

15           We tabled it, pending review of language of the  
16 permit special conditions.

17           So do we have some language everyone can agree to?

18           LEGAL COUNSEL MORGAN: We do. I provided it to  
19 Ms. Burroughs.

20           MEMBER BURROUGHS: So with this language, I would  
21 make the motion, in regards to the detention basin, that  
22 the Board accept an application for a permit for the  
23 Detention Basin, that any permit issued include special  
24 conditions to address the following:

25           A requirement that the applicant provide the Board

1 with a geotechnical assessment demonstrating the detention  
2 pond does not pose a threat to the adopted plan of flood  
3 control;

4 No. 2, a requirement that the applicant record, on  
5 any title to the relevant property, a statement to the  
6 effect, the project is subject to a Board permit, and the  
7 project may not be modified, in any way, without prior  
8 written consent of the Reclamation Board, however, that  
9 maintenance activities shall not be restricted on account  
10 of this condition;

11 And that the Board delegate authority to the  
12 General Manager to approve the permit when complete.

13 PRESIDENT CARTER: Okay. Does everybody  
14 understand the motion?

15 And do we have a second?

16 VICE PRESIDENT HODGKINS: Second.

17 PRESIDENT CARTER: We have a motion and a second.

18 Any further discussion?

19 MEMBER RIE: Was that the special condition that  
20 the various counsels agreed to?

21 MR. SHAPIRO: Yes, that's acceptable to Three  
22 Rivers. And we thank your staff for the time working  
23 through it.

24 MEMBER RIE: So you are okay with the motion and  
25 the conditions, all of them?



1           MR. SHAPIRO: Yes, we understand that the motion  
2 allows you to accept the application, and the two  
3 conditions are things we are prepared to do. In fact, we  
4 offered to do the second, and we have already submitted  
5 the first. But we'll work with your staff to make sure  
6 it's adequate.

7           PRESIDENT CARTER: Okay. Rose Marie, could you  
8 just restate the last part about the maintenance  
9 activities not being restricted? Is that what it was?  
10 Maintenance activities shall not be restricted on account  
11 of this condition.

12           Any other further discussion?

13           All those in favor, indicate by saying "aye."

14           (Ayes.)

15           PRESIDENT CARTER: And opposed?

16           The motion carries.

17           MR. SHAPIRO: Thank you.

18           PRESIDENT CARTER: Very good. Thank you.

19           VICE PRESIDENT HODGKINS: At the risk of being  
20 told no, could I make a comment?

21           PRESIDENT CARTER: You've got three minutes.

22           (Laughter.)

23           SECRETARY DOHERTY: That's too long.

24           VICE PRESIDENT HODGKINS: I think the only thing I  
25 wanted to say, and ask the Board members to chime in on

1 here, is what happened here, in terms of working out that  
2 particular permit condition is the way, at least, this  
3 Board member would like to see us try and work with  
4 applicants and have applicants work with us.

5 I think it's a two-way street; find a way, if you  
6 can. And if you can't, then you have to bring it to the  
7 Board.

8 Are there any other comments on that?

9 MEMBER BURROUGHS: In regards to this, I would  
10 like to make a comment that I thank all of those who have  
11 come to this Board to present comments, and that while I  
12 don't agree with things that have question about  
13 integrity, I do believe that public safety is in the best  
14 interest of everything that I'm voting on, and that once  
15 you have been left stranded in an ocean, you need to get  
16 back to public safety as quick as possible.

17 And I would hope that the working relationships  
18 will be of one of integrity and good working relationships  
19 and honesty and lots of communication, that ensures that  
20 we don't have to go through this again.

21 Thank you.

22 PRESIDENT CARTER: Thank you. Okay. With that,  
23 we will continue in order on our agenda.

24 There are no permit actions, Item 14.

25 So our next item is informational briefings, Item

1 15, the Delta Subventions Program Guidelines.

2 Mr. Mraz, good afternoon.

3 MR. MRAZ: Good afternoon, President Carter,  
4 Members of the Board, General Manager Punia. Thank you  
5 for the opportunity to speak.

6 My name is David Mraz. I'm the chief of the Delta  
7 Levees Program. And I would like to talk with you, just a  
8 little bit, about the guidelines for the Delta Levees  
9 Subventions Program, and in hope that I will be able to  
10 speak with you at much greater length sometime in the  
11 future.

12 (Thereupon an overhead presentation was  
13 presented as follows.)

14 MR. MRAZ: Delta Levees Subventions Program was  
15 established in, oh, about 1972, to address the flooding in  
16 the Delta, and the way the bill provided a small amount of  
17 funding that was shared among 60 or so reclamation  
18 districts, to help them improve the levee system.

19 And over the last 35 years, this program has  
20 administered about \$105 million and has actually succeeded  
21 in reducing the incidents of levee failure through that  
22 period of time, even in spite of a rising sea level.

23 MEMBER RIE: Excuse me? Do you have handouts for  
24 us? Is that all we get?

25 MR. MRAZ: That's all you get.

1 MEMBER RIE: You don't have proposed guidelines?

2 MR. MRAZ: Not at this time.

3 SECRETARY DOHERTY: Okay.

4 MR. MRAZ: I think what you got there is the most  
5 succinct version of the guidelines I can give you, and I  
6 don't want to burden you with a rather thick document that  
7 may need changes.

8 MEMBER RIE: Are you going to give it to us  
9 sometime before next month?

10 MR. MRAZ: Would you like it?

11 MEMBER RIE: I certainly would.

12 MR. MRAZ: Sure, I can make that happen.

13 In November, the citizens of the state provided  
14 about \$275 million, some of which is going to be  
15 administered under the program.

16 --o0o--

17 MR. MRAZ: So it's appropriate that we have a  
18 goal. And the goal is reduce the risk to land use and  
19 associated economic activities, water supply,  
20 infrastructure, and ecosystems and other things, from  
21 catastrophic breaching of the Delta levees by building  
22 those levees to the PL 192-82 -- I'm sorry. I'm getting  
23 my standards mixed up. It's a bullet on 192-82 standard.  
24 We do have -- what happened here?

25 --o0o--

1           MR. MRAZ: We do have a set of guidelines that we  
2 have been using for awhile, that tell us how to make these  
3 grants. So the guidelines tell us who's eligible. And to  
4 become an eligible applicant, you must have levees inside  
5 the legal boundary of the Delta; you must pay the first  
6 \$1,000 per levee mile on maintenance or improvements; and  
7 you must file an application by the deadline.

8           Now, with that, you are in the program, and you  
9 can share in the maximum of 75 percent of state funding,  
10 that is paid by category, and the categories are in that  
11 chart that I handed you, are those categories that we pay  
12 under.

13           So the Department of Water Resources receives the  
14 applications, and assembles them into a table,  
15 prioritizing them, and brings them to the Reclamation  
16 Board. And I've done this, I think, a couple of times  
17 with this Board.

18           Receiving the Board's approval, we then prepare  
19 work agreements and get them signed by reclamation  
20 districts. The districts proceed with all the work at  
21 their discretion. They pay for all the bills. They take  
22 care of all the permits and the habitat, making things  
23 happen out there.

24           Then they file their claims. The claims are  
25 reviewed and set down, or the dollar values are set down

1 according to the chart that I've given you there.

2 We work with the Department of Fish and Game to  
3 conduct inspections of the work, just to make sure that  
4 the type of work that they are planning on their  
5 application, in their final plan, was actually completed  
6 on the levees, and to make sure that the mitigation has  
7 been fully paid.

8 With those -- with a letter from the Fish and  
9 Game, we can go ahead and actually make a grant payment.  
10 We'll make those payments and we'll come back to the Board  
11 and let you know what the final payment was.

12 So that pretty much is the process. There's a  
13 couple of other things in there. But there is a need for  
14 change. With the amount of funding that's coming into the  
15 program, for the first time, we find ourselves in the  
16 position of being able to pay all the way through Priority  
17 3, and that is improvements in excess of bullet 19282. So  
18 there is a chance that we could be encouraging the  
19 construction of levees that would then make it eligible  
20 for building, or take it out of the FEMA floodplain, and  
21 make it an urban standard.

22 And I know in the Delta, it's a deep floodplain.  
23 I'm not sure that that is in the interest of public  
24 safety.

25 So there's a need for making some sort of an

1 adjustment or making the decision that we want to support  
2 that kind of construction.

3 We have, in the past, been very lax with your  
4 deadlines. We've seen our job within the Department as  
5 making sure that each levee district has had the full  
6 opportunity to take advantage of the program, to make  
7 those improvements in the levees.

8 Now, that means that sometimes we are holding over  
9 funding for several years, and not being very prompt in  
10 getting the maximum amount of funding out to each one of  
11 the districts.

12 I think with the dollars that are coming in, we  
13 will need to be a little more efficient and have a hard  
14 and fast cutoff date that says, if the conditions of the  
15 grant proposal are not met by a date certain, then you no  
16 longer have access to those funds; those funds will go out  
17 to the remainder of the districts that have met the  
18 requirements and made the work.

19 SECRETARY DOHERTY: Mr. Mraz, may I ask you a  
20 question?

21 MR. MRAZ: Sure.

22 SECRETARY DOHERTY: You are talking about all of  
23 these things in the Delta. And yet, so many times in the  
24 past, I've asked about things happening in the Delta, and  
25 they say that there's a study being undertaken, and that

1 then you will know which ones can be fixed and which ones  
2 can't be fixed and which ones will be allowed to flood and  
3 which ones won't.

4 So how -- how is this still going on?

5 MR. MRAZ: Well, that's a good question. The  
6 Delta is one of those places that is just not easy to  
7 figure out what is the best thing to do.

8 So the Department started the program or a process  
9 called Delta Risk Management Strategy, where we are  
10 looking at seismic events, flood events, sunny day  
11 failures, and the effect on each one of the communities  
12 that are in the Delta. And by "community," I mean the  
13 people that receive power are one community, and the  
14 people that receive water are another community: the  
15 habitat interests, the farming interests, the cities, the  
16 people that live there. So we will take a look and are  
17 taking a look at each of the consequences of levee failure  
18 on all of those communities.

19 In December -- let me see, in January of 2008, the  
20 Department will make a report to the Legislature that will  
21 present the findings of that report. So it has been going  
22 on and we're nearing completion, but we're not quite there  
23 yet.

24 At the same time, the Delta vision is a more  
25 political process that involves a lot of stakeholders and



1 is getting to the people side of the equation. They are  
2 going to make a report to the Legislature during the same  
3 timeframe. And then in December of 2008, we'll come up  
4 with a strategic plan for the Delta. So those are the  
5 studies.

6 SECRETARY DOHERTY: The report will come in  
7 January, and then you will come up with a plan by  
8 December?

9 MR. MRAZ: That's correct. At least that's the  
10 plan.

11 So until we get their guidance, we have to  
12 maintain what we have up there. I'm afraid that if we  
13 were to let it go, then you've got to build back up to  
14 some level of performance. So the program goes on. And  
15 this year, the program will have a very significant amount  
16 of money. We've normally been operating on about  
17 6 million a year. In the coming year, that number will  
18 double and perhaps even triple or more than that. I can't  
19 give you a specific number. The budget hasn't passed, and  
20 the Department won't let me.

21 So that's pushing us to make some changes. One  
22 other change that I would like to talk with some of you  
23 about, and present to the full Board at a later time, is  
24 the ability to make advances. It's allowed in the law  
25 that we've got some procedures and policies that kind of

1 limit us. We can advance 75 percent of their  
2 application -- 75 percent of their grant amount, if they  
3 meet certain conditions. And it's those conditions that I  
4 would like to be able to loosen up, so that we can get the  
5 dollars out to the reclamation districts in time for them  
6 to use them for the actual construction that they are  
7 doing.

8           So that's -- that's probably the primary purpose  
9 for me being here today, is to request we work a little  
10 bit closer and start talking about the necessary changes  
11 and how you want to see them done.

12           But let me finish off the subventions guidelines.

13                               --o0o--

14           MR. MRAZ: We do have the ability to go out and  
15 work with reclamation districts under emergency  
16 conditions. We have up to \$200,000 each year, we can  
17 grant in \$50,000 increments. And over the past years,  
18 we've been credited with saving a number of islands. I  
19 used to have them on this slide, but I don't have them any  
20 longer.

21           We do have a current request from an island in the  
22 Delta. And we just made them an offer of \$50,000 to get  
23 started on some engineering. And we're looking at options  
24 for funding about a million and a half dollars' worth of  
25 work, once they get their engineering completed.

1 SECRETARY DOHERTY: Which island?

2 --o0o--

3 MR. MRAZ: Bouldin Island.

4 So the founding categories, how they actually get  
5 the dollars, that's the chart on your desk. We look at  
6 maintenance; that's limited to \$15,000 per levee mile. We  
7 might want to consider raising that number to about  
8 \$20,000 per levee mile. We can talk about the reasons  
9 when it's convenient.

10 Once we fund every one of the reclamation  
11 districts that is eligible to that maintenance limit, then  
12 we get into rehabilitation. And the first priority under  
13 rehabilitation is the Reclamation Board's highest  
14 priority. In the past number of years, we've not had one,  
15 so we go to the next level, and that's funding Fish and  
16 Wildlife. We would fund Fish and Wildlife permits up to  
17 75 percent. Then we would go into construction for the  
18 hazard mitigation plan cross section. From that, up to  
19 75 percent. Then we would get into the higher standard,  
20 Bulletin 192-82.

21 And generally speaking, we've been running out of  
22 money, once we got into bulletin 192-82. In the upcoming  
23 year, I expect that we're going to be able to fund  
24 priority 2, which is costs of levee maintenance and  
25 improvements that are in excess of \$100,000 per levee

1 mile, and perhaps even into priority 3, which are  
2 improvements beyond the 192-82 cross section.

3 And I think that priority 3 is about where we get  
4 into the potential for creating urban islands.

5 --o0o--

6 MR. MRAZ: This is just the short version that  
7 you've got on your desk, and that pretty much lays out how  
8 we make the payments.

9 --o0o--

10 MR. MRAZ: And this is just a little bit of work  
11 that we do with Fish and Game, to make sure that we fully  
12 mitigate, have no net long-term loss, and we result with  
13 programmatic enhancement.

14 MEMBER RIE: What is bulletin 192-82?

15 MR. MRAZ: It's a Department of Water Resources  
16 bulletin that looked at levees in the Delta and made  
17 recommendations about a specific cross section. The  
18 section has a crest elevation that's a foot and a half  
19 above the 300-year flood plain, one and a half along water  
20 slide slope, 16-foot crown, and the back slope varies  
21 depending on peat thickness, five-to-one to eight-to-one.  
22 That is in the ballpark of where it is.

23 And I think that's all that I have for you today.

24 SECRETARY DOHERTY: I have a question.

25 MR. MRAZ: Sure.

1           SECRETARY DOHERTY: At the beginning of your  
2 presentation, there was some concern that you expressed if  
3 there was enough money to fund into priority 3, that you  
4 were concerned that if a reclamation district would use  
5 the money to create urban islands. And I don't think that  
6 you have to worry about that.

7           The amount of money the reclamation districts are  
8 getting from Delta Levee Subventions isn't enough to get  
9 them through the FEMA process. To get through the FEMA  
10 process now, you have to do under seepage analysis,  
11 structural analysis, stability analysis, hydraulic  
12 analysis, and you have to hire registered engineers to do  
13 all that work.

14           And I don't think that those type of activities  
15 qualify for subventions money, unless I'm wrong.

16           MR. MRAZ: It's engineering and construction.

17           MEMBER RIE: That all qualifies?

18           MR. MRAZ: That all qualifies.

19           MEMBER RIE: But I would think that our Board  
20 would want to support upgrading levees so that they would  
21 be eligible for, is it, PL 99-84 or PL 84-99? 84-99.

22           I would think our Board would want to support  
23 getting the private levees in the Delta up to those  
24 standards, so that they are eligible for Corps  
25 reimbursement, when we have large storms, there's erosion,

1 wave action, they can get that assistance from the Corps.

2 So if this Delta Levee Subventions money can be  
3 used to get them into the program, I think we want to  
4 advocate for that.

5 MR. MRAZ: The bulletin in 192-82 cross section  
6 and the PL 84-99 cross section are roughly equivalent;  
7 there are subtle differences between them. The priority 2  
8 allows for construction up to 192-82.

9 So by continuing the priority 2 funding, we would  
10 be doing that.

11 MEMBER RIE: Okay.

12 VICE PRESIDENT HODGKINS: Dave, on 84-99, isn't  
13 there a cost effectiveness test associated with that?

14 MR. MRAZ: If the Corps were to build it, yes.  
15 There would have to be a benefit-cost ratio greater than  
16 one. We don't have that same requirement within the  
17 state.

18 VICE PRESIDENT HODGKINS: But I mean, the primary  
19 purpose of getting somebody 84-99 is so they would be  
20 eligible for the federal money; is that not correct? This  
21 is a higher standard, which is a good thing.

22 But beyond that, it's beyond federal money. And  
23 you either would be or wouldn't be, depending on whether  
24 it's cost effective, to repair the levees when they fail.

25 MR. MRAZ: The -- I think we're getting a couple

1 of things mixed up, at least in my head.

2 The PL 84-99 standard would allow the flood to  
3 come in -- let me rephrase that. Achieving the PL 84-99  
4 standard on an island would allow the flood -- Corps of  
5 Engineers to respond in a flood emergency and help the  
6 district. And whether that means rebuilding the island or  
7 whether it means placing some rock during an emergency  
8 incident, they could do that.

9 I don't believe it has anything to do with making  
10 the island a federal levee or a part of a state plan of  
11 flood control. I believe that's where -- what you mean.

12 GENERAL MANAGER PUNIA: Maybe I can throw a little  
13 light on this. Butch, under PL 84-99, there are two  
14 programs:

15 One is emergency first response. That is, doesn't  
16 matter if there's a threat to life and property, Corps  
17 would bill the response under DWR and local agency;

18 The other program, under PL 84-99 is levee rehab  
19 program. The project levees are already part of the PL  
20 84-99 rehab program, but the non-project levees can also  
21 participate in the levee rehab program, but they have to  
22 meet the PL 84-99 standards to be eligible under that  
23 program.

24 And the beauty of that program is, it's a  
25 nonfederal flood control project levee, but if there's a

1 damage due to flood, then the Corps will come and fix that  
2 levee.

3 VICE PRESIDENT HODGKINS: But it's the rehab work  
4 where the Corps requires the cost effectiveness test?

5 GENERAL MANAGER PUNIA: Right. Yes.

6 VICE PRESIDENT HODGKINS: Okay. I think I  
7 understand now.

8 MR. MRAZ: I do too.

9 MEMBER RIE: Now, you said the Rec Board has not  
10 had any highest priority projects for several years. If  
11 our Board wanted to put some projects in that category,  
12 would we advertise to the reclamation districts to submit  
13 proposals to our Board for that priority?

14 MR. MRAZ: Well, I think the way that it works is,  
15 if there is a category of funding that you would like to  
16 have as your first priority. For example, if the  
17 Reclamation Board wanted every RD out there to use a  
18 magnetic anomaly surveys to locate defects in the levee,  
19 you could put that as your highest priority.

20 Then, as we look at the bills that come in, in the  
21 final claims, we would pay the bill for that particular  
22 item before we would pay other bills.

23 MEMBER RIE: Okay. So if we want to set a  
24 particular item in that category, you are asking us to  
25 vote on this next month. Do we have enough time, as a



1 Board, to come up with our highest priority projects?

2 MR. MRAZ: Sure. I don't believe it has to be  
3 voted on next month. I think the critical time is when --  
4 before the work agreements are finally signed by the  
5 Board. And I believe that will take place sometime --  
6 well, certainly not before June or July, because that's --  
7 we won't know what the funding is until after that time.

8 I think we've got plenty of time to make some  
9 decisions and changes.

10 MEMBER RIE: Should we be doing an outreach to the  
11 public? I know that most of the public was in support of  
12 Proposition 84, Proposition 1E. The Legislature's in  
13 support of additional funding for Delta Levee Subventions.

14 Should we do some outreach to put some priorities  
15 other than the normal Priority 1, 2, 3?

16 MR. MRAZ: I believe it's up to the Board,  
17 whatever you would like to do.

18 LEGAL COUNSEL MORGAN: It's entirely up to the  
19 Board. The sooner the draft -- there's two approvals.  
20 The Department provides criteria to the Board for how the  
21 funds are going to be spent, and the Board approves that.  
22 And they can change it entirely.

23 Whatever the Board determines and approves are the  
24 criteria. Those are the criteria for that year.

25 Then the Board -- then the Department comes back

1 or the -- I think the Department comes back with the  
2 agreements, and the Board approves the agreements based on  
3 the plans submitted by the islands -- the reclamation  
4 districts pursuant to those criteria. And the criteria,  
5 there's been little changed in a very long time, but it is  
6 entirely the Board's call how to allocate the resources.

7 So the Department makes recommendations. The  
8 Board can shuffle the deck any way the Board wants, the  
9 more time the Board has and dedicates to thinking about  
10 the issue, the more meaningful the shuffle will be.

11 VICE PRESIDENT HODGKINS: I'm trying to understand  
12 what you are looking for today. I mean, a lot of things  
13 are going through my mind. Could the Board, for instance,  
14 "up" for some classes of, or some priority, the  
15 contribution that the local district has to make per mile?  
16 Or is that set in the Legislature?

17 MR. MRAZ: The \$1,000 per levee mile is set in the  
18 law. I think that's probably something that -- I will  
19 defer to counsel on that one.

20 LEGAL COUNSEL MORGAN: There are some statutory  
21 requirements and limitations. But anything beyond that is  
22 entirely the first -- in the first instance, it's the  
23 discretion of the Department to repair -- recommend  
24 criteria. And then second, the discretion of the Board to  
25 accept, modify, and then approve whatever it wants. So

1 long as it's not, you know, limited to 12986 of the Water  
2 Code.

3 VICE PRESIDENT HODGKINS: The other thing here is  
4 if the plan, to come up with a plan, actually comes to be,  
5 that plan could, in effect, say, we're going to fix some  
6 of these levees and, in effect, try to make them so they  
7 are there in perpetuity, and others, we're not going to  
8 do.

9 So is this something we need to do, in your mind,  
10 before that plan is -- is this for the interim period  
11 between the extra money and the plan, or....

12 MR. MRAZ: I believe that for the next two years  
13 we'll be in this kind of a gray area, where we need to  
14 make a decision about how we want to continue the program  
15 and what are the things that this Board wants to do with  
16 the program.

17 Without seeing the guidance from Delta Vision, I  
18 think once Delta Vision is complete, there will be a lot  
19 more discussion and a lot more facts, the facts coming  
20 mostly from dreams that you could look at, to make some  
21 decisions about how you want to change your guidelines or  
22 regulations. Because there's a potential that we may have  
23 to take these regulations in the future. I think for the  
24 next two years, we're kind of in a gray area.

25 VICE PRESIDENT HODGKINS: Is it appropriate for us

1 to try to articulate to you what we would like you to come  
2 back to us with, at this point?

3 I mean, I would say that, you know, given the  
4 uncertainty about the plan and the fact that we have a lot  
5 of money, we ought to ask you and staff, who have been  
6 doing this program for years, and given the goals of the  
7 program, which are the protection of the State's  
8 investment and the portions of the Delta that are  
9 considered to be of value, to the state as whole, what  
10 kind of changes you would make in those guidelines.

11 MR. MRAZ: I think it would be very appropriate to  
12 ask me to come back with recommendations for changes.

13 The -- in the past, we've had a Board member sit  
14 down with Department of Water Resources staff and listen  
15 to the arguments, pro and con, and then render an opinion  
16 about what the Board would like to see.

17 I think that's the type of assistance that would  
18 be most beneficial to me and to expedite the process for  
19 the Board.

20 But however the Board decides that you want to  
21 work it out, I would be happy to work along with you.

22 MEMBER RIE: Have you received any special  
23 requests from any of the reclamation districts?

24 MR. MRAZ: Several. We have.

25 MEMBER RIE: Like what?

1           MR. MRAZ: Those are the changes that I mentioned  
2 to you a little bit earlier.

3           MEMBER RIE: Going from 15,000 to 20,000?

4           MR. MRAZ: That one was last year's Board -- or  
5 maybe it's been three or four years ago now. How time  
6 flies. They were interested in pursuing that, and I think  
7 it has merit. But I won't belabor the point right now.

8           We did receive a request from the reclamation  
9 districts to expedite the advances, because there are a  
10 lot of districts out there that are poorly financed, and  
11 year to year, they take their little pot of money and they  
12 use it for maintenance, and they don't have enough to get  
13 a big project going.

14           So if they could get real advances, then the  
15 belief is that they could do much more work, and that's  
16 the kind of thing that I believe we want to see, that they  
17 build the levees up, rather than just maintaining what  
18 they have. That's one.

19           They had some -- what was the other one? I'm  
20 drawing a blank on the other one that just came in  
21 yesterday.

22           MEMBER RIE: That's okay. Perhaps you can go back  
23 to the reclamation districts. And I'm sure you have some  
24 sort of communication chain or e-mail list. Go back to  
25 all the reclamation districts who are currently in the

1 program, and ask them for their input. I think we, as a  
2 board, we would like to hear what their comments are.

3 MR. MRAZ: Sure. We do have regular monthly  
4 meetings with the reclamation districts, first Friday of  
5 the month, at 9:00 to 11:30, here in the Resources  
6 Building. And this is one of the topics that we will be  
7 discussing for the next several months in those meetings.

8 We have informal communications with district  
9 engineers and presidents and attorneys on an irregular  
10 basis. And they are very much aware of the guidelines and  
11 have expressed desire to make changes. And those are the  
12 places that I reach out and talk with people that are  
13 familiar and can make good relevant comment.

14 MEMBER RIE: Okay. Thanks.

15 MR. MRAZ: I will certainly bring them to you.

16 PRESIDENT CARTER: So is there a member of the  
17 Board that would like to work with Mr. Mraz? A year ago,  
18 we had Emma Suarez who was working on the Delta Levee  
19 Subventions Program. She's no longer with us.

20 SECRETARY DOHERTY: There's not a chance that you  
21 could meet down near the Delta, instead of coming all the  
22 way up here?

23 MR. MRAZ: I think we might be able to meet down  
24 there. But do you have a particular place in mind?

25 SECRETARY DOHERTY: I was just thinking it's close

1 to you.

2 MEMBER RIE: I live down there, so I would go to  
3 your meetings, if I didn't have to drive all the way up  
4 here.

5 MR. MRAZ: The Levees and Habitat Advisory  
6 Committee meetings?

7 MEMBER RIE: Yeah, I would go.

8 MR. MRAZ: Mainly, because we've been meeting here  
9 for years and years and people just -- first Friday of the  
10 month, they come up. I will have to get back with you on  
11 making that change. But I would love to come down and  
12 meet with you in the Delta and talk about the changes as  
13 they come up and as we start developing them.

14 MEMBER RIE: I can volunteer to do it, unless  
15 somebody else really wants to do it.

16 PRESIDENT CARTER: That's terrific. You're it.

17 VICE PRESIDENT HODGKINS: It's not that we don't  
18 want to.

19 PRESIDENT CARTER: Okay. So Mr. Mraz, then you  
20 should look to Teri as some -- as a course of input from  
21 the Board on those, other than Board meetings.

22 MR. MRAZ: Thank you very much. I look forward to  
23 working with you.

24 PRESIDENT CARTER: Thank you.

25 All right. We're on to Item 16, Board Comments

1 and Task Leader Reports.

2 Any Board comments or task leader reports?

3 The executive committee had a meeting with the DWR  
4 executive on Wednesday. We talked about our typical  
5 topics, which are, these days, implementation of the 1E,  
6 Prop 84 funds, and the Board's role in that early  
7 implementation criteria, which are now published and have  
8 been reviewed, at a number of public meetings, by DWR.  
9 What else did we talk about?

10 GENERAL MANAGER PUNIA: One issue was the state  
11 sponsorship of a flood control project outside the  
12 existing flood control project. The DWR is bringing that  
13 issue to our attention. And we will be -- I think need to  
14 make some decisions, because the Hamilton City Project  
15 falls under that category. So the Department of Water  
16 Resources are asking us to participate in this discussion,  
17 whether we want to be a nonfederal sponsor of these type  
18 of projects, because there's a liability once you become a  
19 nonfederal sponsor of these projects.

20 They are thinking that if the local agency can  
21 become a nonfederal and the state becomes the local  
22 sponsor, then there's a shared liability among the local  
23 and the state.

24 So that issue needs to be discussed with the  
25 Board. I think the one proposal involved, maybe we can



1 have a smaller subcommittee where we can discuss the pros  
2 and cons of this proposal and bring them back to the  
3 Board.

4 SECRETARY DOHERTY: I was able to go to the  
5 Tisdale Weir again, as part of this study. And then I  
6 went up to Levee District 3 with Mr. Hodgkins. And we  
7 toured there with the landowners and with River Partners.  
8 We're quite a ways apart in things. I think Mr. Hodgkins  
9 went back again. And I have been going to some of the  
10 technical advisory committee meetings, and everything's  
11 always roses, but it's only filled with agency people, no  
12 landowners; and also to the Sacramento River Area  
13 Conservation Forum. But I did miss yesterday's meeting,  
14 because I had two meetings Wednesday and then this today.  
15 But I understand that Colusa County was quite upset and  
16 did not accept their good neighbor policy.

17 So we will be revisiting, I guess, the  
18 elderberries again. And for those of you that never  
19 heard, Butch said he knew it -- but I didn't know that  
20 it -- that elderberry seed has to pass through a bird or  
21 chicken before it will hatch or before it will grow, which  
22 I thought was really interesting. So that's why you see  
23 them growing around underneath the bushes and also along  
24 fence lines, where the birds kind of tend to congregate.  
25 I thought that was pretty fascinating. And I'm trying to

1 propagate some elderberries just for the hell of it.

2 PRESIDENT CARTER: Got to get birds then.

3 SECRETARY DOHERTY: That's right. I've got two  
4 chickens.

5 PRESIDENT CARTER: Any other Board member  
6 comments?

7 MEMBER RIE: I just have a question about what Jay  
8 Punia said regarding the Hamilton City-type projects.

9 To reverse roles between the state, as a  
10 nonfederal sponsor, and the local agencies, I'm just  
11 wondering if legal counsel has looked at that, in terms of  
12 the assurances and the cooperation agreements that the  
13 State has signed with the United States government, to be  
14 nonfederal sponsors.

15 GENERAL MANAGER PUNIA: Maybe I need to elaborate  
16 more. Hamilton City is not a project levee; it's a  
17 private levee and now it is a Corps-sponsored project.

18 The issue is whether the state should be a  
19 nonfederal sponsor, or the local agency should step up and  
20 be the nonfederal sponsor. So that's -- this is a broader  
21 policy issue, also, for future of these kinds of projects,  
22 whether we want to be the nonfederal sponsor beyond our  
23 existing flood control project. Because there's a  
24 liability associated with this.

25 So we need to discuss this and the Board may have

1 a recommendation on this subject, to the Department of  
2 Water Resources and for our future projects.

3 MEMBER RIE: I would suggest that we put legal  
4 counsel on that committee, because it seems like you would  
5 have to look very carefully at what the Legislature has  
6 authorized in terms of jurisdiction over the Sacramento,  
7 San Joaquin Rivers.

8 PRESIDENT CARTER: That's a good suggestion.

9 VICE PRESIDENT HODGKINS: I think it makes sense  
10 too, but I think this, in effect, would be projects that  
11 are not connecting to an existing project levee. And, for  
12 instance, I forget the name of the agency down in the Bay  
13 Area who does a lot of flood control work, probably in  
14 Santa Clara.

15 PRESIDENT CARTER: Santa Clara.

16 VICE PRESIDENT HODGKINS: Santa Clara.

17 They do projects where the state participates  
18 financially through the subventions program. But the  
19 primary difference here is, all of a sudden, we have all  
20 this money, where you don't have to necessarily wait for  
21 subventions.

22 And so the real question, in my mind, is, I think  
23 the Board doesn't want to relinquish control over those  
24 portions of the system that are important to the function  
25 of the system.

1           On the other hand, we don't want to get in a  
2   position where we have this checkerboard pattern, where  
3   we're involved in what happens, because it doesn't really  
4   affect the system. And understanding that, to me, is the  
5   most important part of making this decision. And I think  
6   Hamilton City is a good place to start out, because it's  
7   on the Sacramento River, even though it's above the  
8   project levees.

9           And I don't think there's any question, we want  
10  them to get their system fixed. The question is, do we  
11  want to be in debt on that project forever? And I don't  
12  have an opinion on this project at this point.

13           PRESIDENT CARTER: That's something that we are  
14  just going to have to sort out.

15           VICE PRESIDENT HODGKINS: I think we were  
16  thinking, perhaps, we might have the Hamilton City have a  
17  presentation at the next Board meeting, on the Hamilton  
18  City project and then see where we go from there.

19           PRESIDENT CARTER: Any other comments? Reports?

20           VICE PRESIDENT HODGKINS: I think we ought to give  
21  some kind of a quick summary of the TRLIA subcommittee  
22  meeting. And while there were lots of comments on the  
23  permit issues that we heard today, I think, fundamentally,  
24  the situation there is that, there appears to be a  
25  reluctance for the development community to step up and

1 put more money into the projects, until they have more  
2 certainty about the State going to put some money into the  
3 project. And we're trying to get an understanding if that  
4 concern is going to slow the project down or not. And  
5 we're going to go to a second meeting to help us better  
6 understand that.

7 Is that a fair statement?

8 PRESIDENT CARTER: Fair statement.

9 The second meeting is publicly noticed. And the  
10 date and time again?

11 SECRETARY DOHERTY: 22nd at 1 o'clock, in the same  
12 area.

13 PRESIDENT CARTER: So 22nd at 1 o'clock, at the  
14 Yuba County Center -- Government Center.

15 So anybody is welcome to attend, any Board member,  
16 any staff, any member of the public is invited to attend.

17 Any other comments from staff? Any comments?

18 CHIEF ENGINEER BRADLEY: Just wanted to mention  
19 one thing. The Board does have a project with Hamilton  
20 City. It's the Hamilton City Feasibility Study. And it  
21 is a Corps-Rec Board project. The problem is going  
22 forward, that most of the economic benefits for this  
23 project are environmental. And so if the Board is to be  
24 even the nonfederal partner, we can only costshare in the  
25 flood control portion, which represents 10 or 15 percent

1 of it. And we don't have the authority to be the  
2 nonfederal partner for the large share of the project,  
3 because we cannot do the environmental restoration.

4 But we do -- that is one of the Rec Board's  
5 projects, the feasibility study. There is no flood  
6 control project that hasn't gone to Congress and been  
7 authorized.

8 PRESIDENT CARTER: Okay.

9 Report of the Activities of General Manager.

10 GENERAL MANAGER PUNIA: A few of the items I was  
11 planning to report, we have already discussed. So I will  
12 skip to others. Yesterday, there was a meeting requested  
13 by River Partners and the Department of Water Resources  
14 and Director Lester Snow. And I was invited to  
15 participate in this meeting.

16 River Partners and Nature Conservancy staff  
17 expressed concerns that they don't see that the Rec Board  
18 will approve their project, proposed project, to plant  
19 elderberries at the Del Rio site.

20 I think I was able to share the concerns from LD3  
21 and the Board members' concerns, and then Director Lester  
22 Snow proposed that there will be a follow-up meeting in  
23 which Rec Board members and Wildlife Conservation Board  
24 will meet with Resources Secretary Mike Chrisman, who will  
25 discuss the subject further.

1 David Ford's report --

2 MEMBER RIE: Regarding the River Partners meeting,  
3 have they made any progress toward addressing the  
4 reclamation districts' concerns?

5 GENERAL MANAGER PUNIA: From their point of view,  
6 they have expressed they are trying their best to address  
7 the concerns. And they've informed the director that they  
8 have received a Safe Harbors Act for the project area.  
9 But then I pointed out that it's not sufficient from a  
10 local perspective. They want the adjoining area, but  
11 their comment was, there's nothing they can do for that.  
12 They got the Safe Harbor for their own project site.

13 And then they have also brought up to the  
14 director's attention that the formal assessment for the  
15 levee district is only \$12,000 for maintaining 12 miles of  
16 the levee, which is not sufficient. So they brought to  
17 the director's attention that the district has to step up  
18 to assess at a higher rate, to provide adequate  
19 maintenance.

20 And I think, from their perspective, they are  
21 doing all they can, but they are not able to completely  
22 satisfy LD3 concerns. And their perception is they may  
23 not ever be able to satisfy completely LD3 concerns.

24 PRESIDENT CARTER: Did they happen to mention  
25 that, you know, as far as assessments go, I don't think

1 that they can assess the federal government? And the  
2 federal government is a large landowner along that levee,  
3 that they have to maintain?

4 GENERAL MANAGER PUNIA: No, that was not shared.

5 PRESIDENT CARTER: And potentially, the River  
6 Partners property could end up in federal hands or state  
7 hands?

8 SECRETARY DOHERTY: That's what they said, right  
9 to us, here, in this room. If you don't do it, we're  
10 going to give it to the feds.

11 VICE PRESIDENT HODGKINS: Can we talk about  
12 Bagley-Keene on this? Are we getting an appeal?

13 LEGAL COUNSEL MORGAN: Well, this is still -- this  
14 is still a report of the general manager. But if you are  
15 asking general manager what was discussed, I think that's  
16 probably fair game.

17 VICE PRESIDENT HODGKINS: Because I have different  
18 perceptions on some of the issues than Jay had. And I  
19 participated. I know Jay has worked with the River  
20 Partners folks, and so did Lady Bug and I. And, you know,  
21 I think the issue of money from the federal government or  
22 the state government, in terms of tax, is not the big  
23 issue here, really. There is some money being paid.  
24 There's not -- but it's only about half of what the state  
25 and federal government own.



1           I think there, right there, is the issue. And the  
2 issue is that the landowners have seen, over the times  
3 that they have been working that land, that the state and  
4 the federal focus in interests, and honoring of  
5 commitments comes and goes. And they are very concerned  
6 that with the introduction of potentially endangered  
7 species, that nobody will step up and come up with some  
8 means that will assure the landowners that they are not  
9 going to be worse off because these elderberries get  
10 planted in their district. And they can come up with  
11 hundreds of reasons -- not hundreds, but many reasons why  
12 it's a problem.

13           But it's fundamentally an issue of trust and  
14 can -- I don't think River Partners is the person who can  
15 make any real difference in it, because River Partners is  
16 working primarily off of grants. And most of the grants,  
17 I suspect, come either from the federal or state  
18 government.

19           And River Partners will tell us that the grants  
20 don't allow them to do something, for instance, like fund  
21 some kind of a contingency fund with the district that  
22 would put the district in a position, if it needed to, to  
23 go out and address what happens when the elderberries  
24 spread, if they spread or they choke the channel.

25           And the fundamental issue is trust, I think.

1 Would you agree?

2 SECRETARY DOHERTY: Well, there's that. But I  
3 also think their concern is choking the channel, because  
4 already, north of that fence, where we stood the other  
5 day, is a whole line of young oak trees springing up. And  
6 the water comes down and then it's going to hit this area,  
7 and they are already complaining because it's taking  
8 longer for the water to go through their area and it's  
9 staying longer. And they're afraid that this is just  
10 going to enhance it further.

11 VICE PRESIDENT HODGKINS: But it's the same issue.  
12 I mean, the state could -- the state will make assurances  
13 that we won't allow that to happen.

14 But what do those assurances mean? Because it's  
15 happening as far as they are concerned. So it is a trust  
16 issue as far as the property owners are concerned. And I  
17 think it's a valid trust issue.

18 But the -- you know, it gets mixed in with  
19 property rights issues and all of that. And I don't think  
20 it's an easy thing to work out, to the satisfaction to all  
21 of the parties, particularly if nobody's willing to put up  
22 any more money or try and stress their line a little bit,  
23 to find a way to address these issues in some meaningful  
24 way. And I don't know if anybody can or will.

25 MEMBER RIE: So you guys are going to meet again?

1           GENERAL MANAGER PUNIA:  Yes, the director's office  
2   is coordinating a meeting between the Wildlife  
3   Conservation Board, the Department of Fish and Game, and  
4   Sectary Mike Chrisman.  And the Board members will be  
5   invited and myself.

6           SECRETARY DOHERTY:  Did they say anything about  
7   any elderberries having to be mitigated by the landowners  
8   in the area.

9           GENERAL MANAGER PUNIA:  No, that was not  
10  discussed.

11          PRESIDENT CARTER:  When you say "Board members,"  
12  we're talking about no more than two Board members,  
13  because I don't think this is going to be a publicly  
14  noticed meeting.

15          GENERAL MANAGER PUNIA:  That's correct.  I think  
16  the director mentioned my name and your name and Butch  
17  Hodgkins.

18          PRESIDENT CARTER:  Okay.

19          GENERAL MANAGER PUNIA:  Okay.  To continue, I  
20  think, based upon our Executive Committee meeting, I'm  
21  thinking of scheduling a meeting for DWR Corps and Rec  
22  Board staff to go over the Section 408, to clarify the  
23  procedure based upon the guidelines issued by the Corps.

24          And --

25          MEMBER RIE:  Jay?

1           GENERAL MANAGER PUNIA:   Yes.

2           MEMBER RIE:   I think, if you are going to have a  
3   meeting on 408, it's such a big issue that probably Butch  
4   and I should be there as well.

5           GENERAL MANAGER PUNIA:   Okay.   At a staff level,  
6   first let's do some homework, and when we reach some kind  
7   of a high-level discussion, maybe we can involve the Board  
8   members.   But if you want to be involved in the meeting --  
9   I was thinking that Jim Saunders with the staff could  
10   probably come in with this letter we need to finalize.   We  
11   can have some public clarification, on the Corps and us.

12          VICE PRESIDENT HODGKINS:   I do think that's fine  
13   for the SAFCA project.   But I do -- I think in the  
14   Executive Committee meeting, we talked a little bit about  
15   the need for DWR and the Rec Board to begin the work with  
16   the Corps, to see if we can get some clarification of how  
17   this thing is going to work.   And that's not the meeting  
18   you are talking about.

19          GENERAL MANAGER PUNIA:   That's the meeting I'm  
20   talking about, that we discussed briefly, that this needs  
21   to be resolved, that where we may initiate some discussion  
22   with the U.S. Army Corps of Engineers, on this subject.

23          MEMBER RIE:   I think what you are talking about is  
24   a policy-level discussion.   And I think if you want to  
25   have a policy-level discussion of what does it exactly

1 mean, and how are these projects going to be implemented,  
2 we need to have a united front. The Rec Board and DWR  
3 need to come together, strategize and maybe include SAFCA  
4 and the Central Valley Flood Control Association, and all  
5 be united and decide, you know, how we want to approach  
6 this.

7 Because I think there's a difference of opinion,  
8 at the Corps, at the district level and the headquarters  
9 level, and it varies depending on who you talk to. I  
10 think we all would like to see the decisions made at the  
11 district level.

12 So there's bigger issues. And we've had several  
13 meetings before you came on as general manager.

14 And, you know, the Corps is struggling. We're  
15 struggling, SAFCA's struggling. DWR is struggling.

16 I would suggest that you guys go ahead and meet  
17 and decide how you are going to handle the SAFCA permit.  
18 But the larger issue of how the State addresses 408, we  
19 have to approach that with DWR. That would be my  
20 recommendation.

21 LEGAL COUNSEL MORGAN: I would point out that the  
22 Board does have a different agenda. Usually, the  
23 Department and the Board are on the same page about things  
24 and for a very long time, have been. That has not always  
25 been the case, and that may not always be the case in the

1 future.

2           And this is an area where potentially -- I mean,  
3 the Department is not the entity that has given the  
4 nonfederal assurances to the Corps. The Board has. So  
5 it's the Board that has the responsibility for this plan  
6 of flood control. The Department had been given statutory  
7 responsibilities. And through bond monies, there are  
8 expectations what the Department will do. But it's still  
9 the Board's project.

10           So the Board, if it wants to have a policy, needs  
11 to develop that policy. But right now, there is no policy  
12 to say that approval should be from the Board. The Board  
13 has never adopted a policy. So if the Board wants to  
14 adopt some sort of policy, decide what is in the best  
15 interest of the Board for this project, and then see who  
16 wants to join our board: The Department, the local  
17 interests. I mean, the local interests are always going  
18 to want to push things fast. They're not the one who sign  
19 these agreements with the Corps. They are pretty much off  
20 the hook.

21           So they are always looking for the fastest,  
22 shortest, processing time. And that may be the best thing  
23 for the Board too, for a lot of projects. But if there's  
24 some question about it, in terms of what the Corps wants  
25 to review, it may not necessarily be of the Board's

1 interest. And the Board needs to make a decision about  
2 what is its interests and where it wants to draw the line.

3 MEMBER RIE: Well, my recommendation would be that  
4 408 is such a sensitive issue that we, as a Board, and  
5 before we meet with the Corps and advocate any kind of  
6 policy or position, that we're all on the same page --  
7 staff and the Board members.

8 So maybe before we move forward, the Board  
9 members, who were on the committee, meet with the staff  
10 and make sure we develop a strategy. And if DWR wants to  
11 be included with that, we should definitely include them.  
12 I think we definitely need to talk to them. They may not  
13 be interested, but I think it's in the state's interest  
14 that the Rec Board and DWR try to get on the same page.

15 Do you agree with that?

16 VICE PRESIDENT HODGKINS: I do. I think that this  
17 idea of meeting with the Corps and discussing it comes  
18 from some of the advice that staff has given the Board in  
19 the past, about trying not to listen to the Corps'  
20 standpoint, and try and figure out something that would  
21 not put the Corps in a position that they are not  
22 comfortable with.

23 And so I think there's a desire to sit down and  
24 better understand what the Corps is, and how can the  
25 Reclamation Board and, I assume, DWR work with the Corps

1 so that we don't compromise the safety of the system. We  
2 do not violate our past assurances, but we also avoid  
3 delaying projects that could be important, will be  
4 important, from a public safety standpoint.

5 And are you saying, it's inappropriate for the  
6 Board to participant in those kinds of discussions?

7 LEGAL COUNSEL MORGAN: Not at all. What I  
8 actually think is, if the Board though, if it wants to go  
9 to some of the policy meetings with a position, should  
10 first, as a Board, develop their position.

11 And rather than lining up behind the Central  
12 Valley Flood Control Associations' statement or anyone  
13 else, the Board should take the leadership role, because  
14 the Board is the partner of the federal government in this  
15 project. And so the Board should decide what's in the  
16 best interest of the Board as the nonfederal partner, and  
17 solicit input from the Department from the Central Valley  
18 Flood Control Association, SAFCA, and everybody else. And  
19 I think that's how the process should work. It's your  
20 project; you're caretakers of this federal project at the  
21 local level. And it's for you, the Board, to say how you  
22 want to have a relationship with your partner, the federal  
23 government. You're partner of the federal government, not  
24 the Central Valley Flood Control Association or the SAFCA  
25 or the Department, except on individual projects.



1           PRESIDENT CARTER:  So would it be possible for the  
2   subcommittee to get together with staff -- and feel free  
3   to solicit any other outside input you would like, but get  
4   together with the staff try and formulate a draft policy  
5   or position statement and bring it back to the Board at a  
6   future meeting?

7           VICE PRESIDENT HODGKINS:  I think it would be  
8   possible to do that, and that might include developing a  
9   policy to put out, in front of the Board, in terms of the  
10  overall direction that we want to go at the next meeting,  
11  so that in discussions with the Corps, the Board is on  
12  record as to what it thinks -- what its interests are  
13  here.

14          PRESIDENT CARTER:  Okay.

15          VICE PRESIDENT HODGKINS:  If we can do that  
16  without triggering -- and I think we and Scott could do  
17  this, without triggering the impression that, you know,  
18  our interest here -- it's the way it's going to be,  
19  because I don't think we are -- I think we recognize that.  
20  We can't tell the Corps how it's going to be.  We have  
21  concerns, and we would like to work with the Corps to  
22  figure out an approach to this, that would address those  
23  concerns --

24          MEMBER RIE:  I agree.

25          VICE PRESIDENT HODGKINS:  -- and be specific about

1    what they are.

2               MEMBER RIE:   I would agree with Butch.

3               But in the meantime, I think the staff has  
4   direction on the SAFCA permit, and this is what I see as a  
5   separate issue.

6               GENERAL MANAGER PUNIA:   We got a request from a  
7   previous Board member, Cheryl Bly-Chester, and she invited  
8   President Carter and myself to speak at the upcoming  
9   American Society of Civil Engineers and Society of  
10   Military Engineers conference on July 24th -- 24th through  
11   26th, I think.   And then there's a follow-up discussion  
12   she's having with the Department of Water Resources to  
13   have a workshop after this conference to discuss the level  
14   of protection, that what's an appropriate level of  
15   protection for urban areas.   So she's working with Les  
16   Harter to have a workshop immediately after the conference  
17   on Friday.

18              PRESIDENT CARTER:   My understanding is that  
19   workshop will be sponsored by the Rec Board and DWR.   And  
20   the purpose of holding them in the same week is that a lot  
21   of the same players will be in town at the same time.   But  
22   they will essentially be two separate events.

23              So with the discussion with regard to level of  
24   protection for urban areas, that Rec Board and DWR  
25   sponsoring would follow the other, because a lot of the

1 discussion would be germane to -- of the American Society  
2 of Civil Engineers and the Society of American Military  
3 Engineers workshop would be applicable to the discussion  
4 that would subsequently be held regarding the appropriate  
5 level of protection for urban areas.

6 GENERAL MANAGER PUNIA: I think that's correct.  
7 The point of sharing that information -- I think most of  
8 us will be participating, if you guys can block your  
9 planners for July 24th through 26th.

10 PRESIDENT CARTER: Probably that whole week.

11 MEMBER RIE: And the 27th for the workshop?

12 GENERAL MANAGER PUNIA: The conference is -- I'm a  
13 little bit mixed up in the dates. The ASCE and SAME  
14 conferences are 24th through 25th. And then the proposed  
15 workshops, sponsored by DWR and Rec Board will be on 26th,  
16 which is Friday.

17 I think that's it, what I had to report. Thank  
18 you.

19 PRESIDENT CARTER: Actually those dates are -- I  
20 think the conference starts on Tuesday the 24th and runs  
21 through Thursday the 26th, and then that Friday the 27th  
22 would be the DWR Rec Board workshop.

23 Okay. Future agenda. There are a couple of  
24 meetings we've talked about today. One is a special  
25 meeting to be held for the purpose of discussing land

1 acquisition. And Scott had pointed out, that should we  
2 want to participate more actively in that, the existing  
3 project, the Tisdale Sediment Removal Project is not  
4 technically a Reclamation Board project. So the Board  
5 would essentially have to take action to adopt that  
6 project as a Reclamation Board project. And if it does  
7 that, then it can more actively participate in the real  
8 estate transaction and negotiation as a result.

9 So there's that meeting, which may also include a  
10 closed session. And then there's, of course, the April  
11 Board meeting at our regularly scheduled date, on the  
12 third Friday of the month.

13 We -- what's the Board's pleasure with regard to  
14 the special meeting? I heard today that we wanted to try  
15 and schedule that at our earliest convenience and in  
16 conjunction with that, Scott Morgan was going to do some  
17 research with regard to what the Board is able to do.

18 Do we want to try and set that date now?

19 SECRETARY DOHERTY: We better, while we got  
20 everyone here.

21 LEGAL COUNSEL MORGAN: I was going to ask  
22 Lorraine, how quickly an agenda -- if we have it drafted  
23 up by Monday morning, how quickly can it be mailed out?

24 STAFF ASSISTANT PENDLEBURY: I would say the  
25 quickest might be Tuesday. Wednesday is better.

1           LEGAL COUNSEL MORGAN:  It won't matter much.  
2   Either way, if it's not on Monday, the earliest you could  
3   have the meeting would be the first week in April, just  
4   counting days.

5           PRESIDENT CARTER:  So in the week of April, what  
6   do people's schedules look like?

7           SECRETARY DOHERTY:  If it's after the 5th, I'm  
8   going to be gone.  If we could have it like on the 2nd or  
9   the 3rd or the 4th, in the morning.

10          PRESIDENT CARTER:  So really, if it doesn't go out  
11   till Tuesday, we need to have -- is it ten calendar days  
12   or ten working days?

13          LEGAL COUNSEL MORGAN:  10 calendar days before the  
14   meeting.

15          PRESIDENT CARTER:  So we're counting 11?

16          LEGAL COUNSEL MORGAN:  Yeah.  And basically -- so  
17   you don't -- let's say, if it could be mailed out, Monday  
18   which it doesn't seem feasible today, you would start  
19   counting -- the tenth day would be the 29th, so you could  
20   be anytime after the 29th.  And that would be the 30th.  
21   Of course, we can't get it out that day.  So if it was  
22   Wednesday the 21st, let me count, the 31st, so the first  
23   business day would be the 2nd.

24          PRESIDENT CARTER:  Okay.  So we have choices of  
25   2nd, 3rd, 4th.

1 MEMBER RIE: I could do it on the 2nd and the 3rd.

2 PRESIDENT CARTER: 2nd and the 3rd.

3 SECRETARY DOHERTY: The 3rd in the morning.

4 GENERAL MANAGER PUNIA: Mondays we're busy with  
5 staff meetings. My proposal is Tuesday, but I will  
6 accommodate if it needs to be.

7 LEGAL COUNSEL MORGAN: We can always move the  
8 staff meeting.

9 MEMBER RIE: Cancel it.

10 PRESIDENT CARTER: What does your calendar --

11 VICE PRESIDENT HODGKINS: Both Monday and Tuesday  
12 day are okay for me.

13 PRESIDENT CARTER: Monday and Tuesday are all  
14 right.

15 So let's set it for -- can we set it for Tuesday  
16 then?

17 All right. At the JOC. Is that all right?

18 LEGAL COUNSEL MORGAN: Yes. That's the most  
19 desirable location for holding meetings. But I expect,  
20 there will be little public interest in the meeting, so we  
21 won't have the problem of a large crowd, who can't hear.

22 I would ask Lorraine, try to find something, a  
23 regular auditorium, just to make it easier. But that  
24 might -- I think we won't have the problem of people not  
25 being able to hear, for the size of the meeting we're

1 going to get.

2 MEMBER RIE: Is it closed and open session?

3 LEGAL COUNSEL MORGAN: There will be a closed and  
4 open session because there will be some information that I  
5 know the Board members want to hear about the process, and  
6 also there will be some discussion about the project and  
7 adoption of the project by the Board. So that will all be  
8 taking place in open session.

9 PRESIDENT CARTER: So then we will have this  
10 special meeting on April -- Tuesday, April 3rd. What  
11 time? Morning? 10 o'clock? Is that a good time? What's  
12 best?

13 MEMBER RIE: 10:00 is better for me.

14 VICE PRESIDENT HODGKINS: 10:00 is fine for me.

15 PRESIDENT CARTER: 10 o'clock.

16 STAFF ASSISTANT PENDLEBURY: The other  
17 consideration is that we can get a court reporter if it is  
18 a public meeting. Okay?

19 MEMBER RIE: Do we have to get a court reporter?

20 STAFF ASSISTANT PENDLEBURY: Yes. Don't we,  
21 Scott?

22 LEGAL COUNSEL MORGAN: It's not legally required.  
23 We try to do it for all our meetings, just to keep really  
24 good records. In retrospect, sometimes it's quite helpful  
25 to have a document.

1           MEMBER RIE: Did you guys have one on Wednesday?

2           PRESIDENT CARTER: We did.

3           So staff will endeavor to cover that base.

4           All right. Then, the April meeting, there was a  
5 request last month, I believe, to try and do timed items  
6 in the interest of people who come to present; they have a  
7 better idea of when they need to arrive. And we weren't  
8 able to do it for this particular meeting just because we  
9 didn't have a good format.

10          But Butch, you had suggested that we -- that the  
11 Board of Supervisors perfected this process, from  
12 Sacramento. And so we printed off a copy of their agenda  
13 for March 20th, which is this week, as a sample of how  
14 they set up their agendas. I -- this particular -- if I  
15 can maybe walk you through this and we can think about how  
16 it might apply to us. On Page 2 of 9, the Section 1,  
17 which is consent matters, the 26 items under that, and  
18 they say that the consent matters are acted upon as one  
19 unit of item of the consent calendar for discussion. It  
20 will be heard at 2:00 p.m. So they -- and I assume by  
21 saying that it will be heard at 2:00 p.m., they try and  
22 hit that time as close as they can, given other  
23 presentations but not before then.

24          And then on page -- and then there's a list of all  
25 consent items. The next issue or the next section is on



1 Page 5 of 9, which is Section 2 which is timed matters.  
2 And time matters cannot be acted upon before the set time.  
3 They will be taken as close to the time as possible. And  
4 they have presentations. They have hearing matters. They  
5 have scheduled consent matters at 2:00 p.m., and then  
6 other timed matters after that -- presentations and  
7 hearings.

8 And then finally, on Page 6 of 9, Section 3, they  
9 have miscellaneous matters. They are not acted upon.  
10 They are listed only for the record. I don't know if they  
11 even discuss these or they just -- it appears that it's  
12 basically just a listing of documents that are -- copies  
13 of which are given to each Board member. And that's it.  
14 And then they do have a closed session. But no timing is  
15 set for that.

16 So thinking about how that would apply to us, we  
17 rarely have consent items. Most of the time, our -- most  
18 of our Board meeting happens between Items, well, 6  
19 through 8: the report of the DWR, and the Three Rivers  
20 Levee Improvement Authority Monthly Report. And then  
21 usually Project Studies and Agreements, we indicate we  
22 will have informational briefings in the afternoon.

23 We can try and set a time for each of these. I  
24 don't know if it's appropriate where we can -- we can set  
25 a time for informational briefings and anything that falls

1 in that category, we don't hear before that time. Or are  
2 we -- if we want to set specific times for specific agenda  
3 items -- board reports, likewise, requested actions,  
4 likewise, if we want to go that route. Or if we want to  
5 try and set times. As a test, before we started this  
6 meeting this morning, I guessed at how much time we could  
7 take for each of these items and noted that.

8 SECRETARY DOHERTY: How did we do?

9 PRESIDENT CARTER: Wasn't too far off. Wasn't too  
10 far off.

11 VICE PRESIDENT HODGKINS: I would note that  
12 normally, there are items where the Board is going to take  
13 them as a separate item and vote on them. But they are  
14 not timed. They have a hidden agenda where they didn't do  
15 that. But those items, provide them and "perfected" is  
16 going a long way.

17 PRESIDENT CARTER: I thought that was the word  
18 they used.

19 VICE PRESIDENT HODGKINS: Well, they have found a  
20 way to do business, giving folks the help of not having to  
21 show up before a certain time if they choose not to. And  
22 they leave items that are not timed items but items that  
23 the Board will act upon. They put them down in the agenda  
24 and they take them as they have time. And so you don't  
25 have to put everything as a timed item. And it's probably

1 a good idea not to do that, just in case you happen to get  
2 through with one timed item very quickly, you don't have  
3 to wait for the --

4 PRESIDENT CARTER: So we could -- items that are  
5 kind of like that, that appear on your agenda fairly  
6 consistently are items like State of Emergency. That's  
7 a -- something that's done by our staff. Mr. Punia is  
8 going to be here all day. That could be kind of a fill-in  
9 item.

10 VICE PRESIDENT HODGKINS: Yeah.

11 PRESIDENT CARTER: Board Comments, Task Leader  
12 Reports, Reports of the Activities of the General Manager,  
13 I would hesitate to do that, do future agenda, because  
14 oftentimes as a result of discussions and things, that we  
15 might want to include it in the next agenda. So those are  
16 some things that can be kind of fill-in items.

17 VICE PRESIDENT HODGKINS: And for instance, the  
18 permit today for the road right-of-way could have been any  
19 time on the agenda. And while I would like to respect  
20 people like Mr. Mraz's time and not make him sit there all  
21 day, in effect, that item was an item that could have  
22 occurred at any time, and he's going to be here, the  
23 arrangement could have been, we will call you when we're  
24 ready for this item, and he comes down and gives it. I  
25 don't know if he works in this building. But those things

1 do happen and can work.

2 PRESIDENT CARTER: So what I would suggest is for  
3 the April -- the regular April Board meeting, we may make  
4 a stab at reformatting the agenda to try and assign times.  
5 And I think it's a good idea.

6 The only downside is that we cannot hear an item  
7 before the time arrives. If we're -- which means we just  
8 take a recess, I guess. If we're done with everything  
9 else we take a recess until that time occurs.

10 So that's the only downside. We could prolong the  
11 day. We probably won't, but we could.

12 VICE PRESIDENT HODGKINS: It shouldn't.

13 SECRETARY DOHERTY: Now, in addition, on our next  
14 agenda, Maintenance Area, Budgets, last year, I think we  
15 were handed the budget when we walked in the door. We had  
16 no time to look at it at all. Is it possible, at all,  
17 that we could have it to us, in our packet?

18 GENERAL MANAGER PUNIA: We will make sure that we  
19 provide something in the packet.

20 SECRETARY DOHERTY: Okay.

21 MEMBER RIE: I was wondering, this is a question  
22 for staff. Are you guys listening over there? Steve and  
23 Scott?

24 What do you guys think about drafting a resolution  
25 for some of these permits, where we need to make CEQA

1 findings and we're going to delegate to the general  
2 manager. How about writing up a quick resolution, if  
3 that's the direction we're going in, or if that's a staff  
4 recommendation, why not have that all preprinted in a  
5 resolution and just have the Board approve the resolution  
6 as written?

7 CHIEF ENGINEER BRADLEY: That's one option.

8 LEGAL COUNSEL MORGAN: Actually, Nancy Finch, who  
9 has CEQA litigation experience, is working with  
10 environmental staff on developing the procedures that the  
11 staff is going to follow in the future. So I will make  
12 that recommendation to her and see what she thinks.

13 MEMBER RIE: And another thing that I think we  
14 should be doing, but I'm not sure how we're getting this  
15 done, is we should be, I think, filing a Notice of  
16 Determination as a Responsible Agency. Are we just doing  
17 that --

18 LEGAL COUNSEL MORGAN: Yeah. Once the project is  
19 approved, and CEQA approval has been approved by the  
20 Board, then the Environmental Officer files the Notice of  
21 Determination. He's prepared to do that. On the SAFCA  
22 thing, the findings, they have got it ready to go.

23 MEMBER RIE: Just seems like those type of  
24 things -- make the CEQA findings, direct staff to file a  
25 Notice of Determination, seems like that kind of stuff

1     should be in a resolution.

2             LEGAL COUNSEL MORGAN:  It doesn't need to be.  But  
3     again, I will mention it to Nancy and see how she wants to  
4     handle it with the staff.  A lot of times, I expect, the  
5     factual matters to be different.  So one of the benefits  
6     of the resolution is, often, they are kind of formulaic,  
7     and you don't change much; whereas sometimes we want the  
8     staff to go into some detail and describe, so that it's on  
9     the record, what environmental impacts were considered and  
10    how they were addressed.

11            MEMBER RIE:  Okay.

12            PRESIDENT CARTER:  I kind of identified four items  
13    that could be flexible.  Even approval of the minutes  
14    could technically be flexible, I think, if nobody has any  
15    serious objections.  But Item 19, Strategic Plan; 20, the  
16    Board Comments; and 21 the GM activities.  So we can kind  
17    of make those as fill-in items.

18            In addition to what's on here, to what occurred  
19    today, the Resolution of Necessity probably ought to be  
20    included with regard to Tisdale.  And let's see.  What  
21    else was there?  We did have a request from Concerned  
22    Citizens for Responsible Growth to be -- to give them 15  
23    minutes to make a presentation to the Board.  And it says  
24    "Regarding Central Valley Plan of Flood Control, placing  
25    the Rec Board totally in charge of all processes with

1 strong enforcement powers according to existing laws."

2 LEGAL COUNSEL MORGAN: Mr. President, I had seen  
3 that e-mail, and it seems, the appropriate place for that  
4 discussion is at the Legislature. I don't think the Board  
5 really ought to be having hearings on expanding its  
6 authority. That's the job for the folks across the  
7 street.

8 PRESIDENT CARTER: Okay.

9 LEGAL COUNSEL MORGAN: That's my recommendation.  
10 There were two requests for Ms. Burroughs.

11 MEMBER RIE: Before we move on, perhaps, Scott,  
12 you would like to prepare a response letter to --

13 LEGAL COUNSEL MORGAN: Okay. I will be glad to do  
14 that.

15 MEMBER RIE: -- Mr. Foley.

16 PRESIDENT CARTER: Yeah, we should respond to  
17 them.

18 He sent this requesting time, and it was after our  
19 agenda had been published for this month. And I told him  
20 that, and that we would consider it for future meetings,  
21 not committing as to which month.

22 So we can go ahead and we can send him a letter  
23 saying that -- just what you said, that he ought to take  
24 that to the Legislature.

25 LEGAL COUNSEL MORGAN: I will be glad to do that.

1           MEMBER RIE: And he always has the opportunity at  
2 the public comment period to say anything he likes.

3           GENERAL MANAGER PUNIA: I just want to propose  
4 that State of Emergency, Item 7, there is not much action  
5 going under that item. I'm proposing that we eliminate  
6 this item from the agenda. And if there is any action, I  
7 can cover that under the General Manager's Report. But  
8 it's up to the Board if they want to consider it.

9           PRESIDENT CARTER: How does the rest of the Board  
10 feel about that?

11          SECRETARY DOHERTY: I think it's a good idea.

12          VICE PRESIDENT HODGKINS: Can you say it again?  
13 I'm sorry.

14          GENERAL MANAGER PUNIA: I think there was some  
15 desire from the Board that the general manager should  
16 report any action taken under the state of emergency.  
17 Presently, there are not much actions being taken by the  
18 Rec Board in response to the state of emergency. So I'm  
19 proposing that rather than keeping this item on the  
20 agenda, that we can eliminate this item from the agenda,  
21 and if there is any action taken by the staff, I will  
22 cover it under the General Manager's Report.

23          VICE PRESIDENT HODGKINS: Okay. That's fine.

24          MEMBER RIE: Okay.

25          PRESIDENT CARTER: Okay.



1           LEGAL COUNSEL MORGAN: The two things that Ms.  
2 Burroughs wanted me to note, asking to be considered for  
3 future agendas, perhaps the next one, is, she was hoping  
4 that the UC Berkeley levee inspection team could be  
5 invited at some point, to come address the Board. And  
6 also wanted -- inspecting the levee might be of interest  
7 to the Board.

8           And have Steve Bradley report back on, as I  
9 understand it, the status of the work done on the permits  
10 for Three Rivers, that he discussed the nature of the  
11 permits today; so the Board would understand how far along  
12 everything was and what was left to be done.

13          MEMBER RIE: Could you say that again?

14          LEGAL COUNSEL MORGAN: Yeah. Ms. Burroughs wanted  
15 Steve Bradley to report back to the Board on all the  
16 permits that he summarized to the Board, and describe for  
17 the Board what work had been done and what remains to be  
18 done for each one of those permits.

19          CHIEF ENGINEER BRADLEY: I understood that was  
20 implied by the Board. I wrote that down as an action  
21 item, as well as looking into the whether the fence was a  
22 permitted activity on that one small seepage berm.

23          MEMBER RIE: Is that going to take a long time,  
24 to -- it just seems like you have a lot on your plate,  
25 and, you know, you have to spend all your time researching

1     permits --

2             CHIEF ENGINEER BRADLEY:  I might ask some of  
3     Mike's staff, go out and check the permits, or have the  
4     inspectors check the permits for compliance.  I don't have  
5     the time to run and check everything out there.

6             PRESIDENT CARTER:  Yeah.  I would certainly try  
7     and see if the permitting group or the inspection group  
8     can -- if you give them the list of permits and they -- it  
9     would probably be a good exercise for them, actually.

10            MEMBER RIE:  Could Steve Dawson give that report  
11     instead of you?

12            CHIEF ENGINEER BRADLEY:  I might give the report.  
13     Steve prepared the list today of all the permit items.  
14     He's familiar with everything.  I would probably present  
15     the report, but Steve will probably make the inspections.  
16     And then I would go over it with him and discuss the  
17     details.

18            I am on jury duty next week.  And the week after  
19     that, I'm gone on vacation.

20            LEGAL COUNSEL MORGAN:  You won't get picked.  Tell  
21     them you are friends with a lawyer.

22            VICE PRESIDENT HODGKINS:  Your jury duty, you are  
23     going to spend the whole time there?  Or you don't know  
24     yet?

25            CHIEF ENGINEER BRADLEY:  I don't know.  I have to

1 call tonight to see if I have to show up Monday. Then  
2 Monday night, I have to call and see if I show up Tuesday.

3 PRESIDENT CARTER: Okay. Any other items for the  
4 agenda?

5 VICE PRESIDENT HODGKINS: I think the basic  
6 hydraulic mitigation, we've got a report from David Ford  
7 that I guess is going to be finalized.

8 I'm concerned, I guess, that I don't think that  
9 provides much guidance for anybody, including the Board,  
10 on how you go about assessing whether or not there are  
11 hydraulic impacts. And I just wonder what our next step  
12 in that area is.

13 And maybe I'm wrong. Maybe everybody's very  
14 comfortable on how we do it and thought it's clear.

15 PRESIDENT CARTER: It wasn't clear to you?

16 VICE PRESIDENT HODGKINS: No. I learned a lot of  
17 stuff I didn't know.

18 PRESIDENT CARTER: The next steps we do need to  
19 determine, my thoughts were, and I was cautioned when I  
20 thought about these, that we do need to kind of have a  
21 meeting of the minds amongst the Board in terms of what  
22 metrics we use for -- metrics or methods of assessing the  
23 hydraulic impacts of projects, of levee improvements or  
24 improvements to the plan of flood control.

25 There are technical aspects of that, which are

1 really in the hands of staff and taking that report.  
2 There are policy implications that are really in the hands  
3 of the Board. And the Board needs to have a discussion  
4 about, I think, what that -- what they internalize from  
5 that report and what makes sense to them, moving forward,  
6 as we face projects.

7 The caution I received was, we have to be careful  
8 about developing underground regulations. And that's  
9 something that we need to -- I, as well as every other  
10 Board member, needs to hear that, that caution, from  
11 Scott, I think, in more detail. But we do need to have a  
12 discussion, I think. And if nothing else, an  
13 informational discussion.

14 I think if we -- I don't know how far we can push  
15 it, if we can establish a policy and if we establish a  
16 policy, that becomes an underground regulation. I don't  
17 know. That's the kind of clarification that I need.

18 But it would be helpful, I think, to the Board and  
19 to the staff and to the applicants if they kind of knew  
20 where we -- where our heads were, with regard to  
21 improvements to the plan of flood control. And that will  
22 speed up the process and eliminate a lot of heartburn for  
23 everybody that's involved.

24 SECRETARY DOHERTY: Isn't that kind of why we had  
25 that meeting on Wednesday, so that we could kind of figure

1 out what it is we need from people? And if we have the  
2 big picture of flood control, that will give us an idea, I  
3 would think, of where in this system does this project  
4 fit. And then we have a set of things of what we'll need.

5 PRESIDENT CARTER: We -- we had the meeting to --  
6 to have an overview of the report and to hear comment from  
7 the public and industry experts. There obviously was the  
8 opportunity for the Board to comment. But it was  
9 primarily kind of an information-gathering session. It  
10 wasn't really structured as a Board discussion as to where  
11 they stand with regard to the information. So that's the  
12 next step.

13 SECRETARY DOHERTY: That's true. But I mean, that  
14 was the next step. And then from there, we had to go out.

15 MEMBER RIE: Are we still taking public comments  
16 from the people who couldn't make it?

17 PRESIDENT CARTER: I believe so. Staff is open to  
18 public comment. I don't know how we're disseminating that  
19 public comment.

20 GENERAL MANAGER PUNIA: Yeah. I think the plan is  
21 to meet with David Ford again and develop the steps, where  
22 we go from here.

23 Originally, when we talked to David Ford, the idea  
24 was, is that we will have some kind of a conclusion or  
25 recommendation. But based upon our counsel's

1 recommendation, that we cannot reach some kind of a  
2 conclusion or recommendation to the Board on this subject,  
3 because it may be considered as underground regs, so we  
4 left it open that these are the various indices that we  
5 can use, depending on the project.

6 VICE PRESIDENT HODGKINS: And I do notice that  
7 other parts of DWR are regularly writing regulations. I  
8 mean, you heard Dave Mraz say that. We heard -- I heard  
9 the DWR presentation on expending the bond money. They  
10 all are writing regulations at various sections of the  
11 bond money. Is that something that is just impossible to  
12 do?

13 LEGAL COUNSEL MORGAN: No. Writing regulations is  
14 not impossible to do. They take certain -- some of the  
15 bond money is used for administrative costs, so it  
16 provides them with staff to write the regulations. And  
17 the board staff is what you usually see before you,  
18 sitting at the table.

19 And it's a very long, drawn out process, to write  
20 regulations. And the first step would be for the Board to  
21 figure out what it wanted the regulations to say. And  
22 right now, you know, an alternative would be for staff to  
23 simply draft regulations for the Board to look at it and  
24 say no, no, we want some other standard. But right now,  
25 we would have staff would have -- would have no guidance

1 on where to go in preparing guidelines on this issue.

2 So I think it's something that should be agendized  
3 and talked about some more.

4 MEMBER RIE: But the regulations or the  
5 legislation or these laws, that DWR staff were working on,  
6 they have sponsors; don't they? You know, for the various  
7 flood control legislation, I remember, AB 1665, that was a  
8 DWR-written bill, but the sponsor was Laird?

9 LEGAL COUNSEL MORGAN: Laird, yeah.

10 I think we are just talking here about Board  
11 regulations, which the Board would adopt, themselves, and  
12 pursuant to their authority to adopt rules to exercise  
13 their statutory authority. But short of that, the Board  
14 can't just adopt a rule that says we're going to always  
15 use this process here. Internally, the Board can. The  
16 Board can say to staff, we want you guys to be -- do such  
17 and such for an internal thing.

18 But for outside folks who have applications to the  
19 Board, they have to have regulations to work from, as  
20 opposed to just --

21 VICE PRESIDENT HODGKINS: Okay. So if we adopt,  
22 in effect, a set of guidelines that the Board adopted for  
23 the purpose of helping staff to understand how we should  
24 make an assessment of hydraulic impacts, then that's not a  
25 regulation?

1           LEGAL COUNSEL MORGAN: I think I need more  
2 specifics, and I need to take those specifics and get back  
3 to you and let you know where the line is. It's a fine  
4 line between what is regulation and what is appropriate  
5 guidance. But it errors largely on the side of  
6 interpreting the need for regulations, when it deals with  
7 the applications of the rights of other people, third  
8 parties.

9           PRESIDENT CARTER: So we'll endeavor to agendize a  
10 discussion amongsts the Boards on the -- amongst the Board  
11 members and staff on the David Ford project.

12           So anything else?

13           All right. Very good. Then with that, we are  
14 adjourned.

15           (Thereupon the California Reclamation Board  
16 meeting adjourned at 4:52 p.m.)

17

18

19

20

21

22

23

24

25



## 1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. KENYON, a Certified Shorthand Reporter  
3 of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the  
5 foregoing Reclamation Board Meeting was reported in  
6 shorthand by me, Kathryn S. Kenyon, a Certified Shorthand  
7 Reporter of the State of California, and thereafter  
8 transcribed into typewriting.

9 I further certify that I am not of counsel or  
10 attorney for any of the parties to said meeting nor in any  
11 way interested in the outcome of said meeting.

12 IN WITNESS WHEREOF, I have hereunto set my hand this  
13 30th day of March, 2007.

14  
15  
16  
17  
18  
19  
20  
21  
22 KATHRYN S. KENYON, CSR  
23 Certified Shorthand Reporter  
24 License No. 13061  
25